

The complaint

Mr L complains that Gain Credit LLC trading as Lending Stream (“Lending Stream”) lent to him without carrying out sufficient checks.

What happened

Mr L was advanced one loan of £250 on 8 December 2023. Mr L was due to make five monthly repayments of £83.86 followed by a final payment of £80.70. Mr L is currently repaying the loan through a repayment plan.

Following Mr L’s complaint, Lending Stream wrote to him to explain why it wasn’t going to uphold the complaint because its checks showed the loan was affordable. Unhappy with this response, Mr L referred the complaint to the Financial Ombudsman.

The case was then considered by an investigator who didn’t uphold it saying the checks were proportionate and while she acknowledged what Mr L had said about providing the incorrect income, she was nonetheless satisfied the loan appeared affordable.

Mr L didn’t agree with the investigator’s assessment saying:

- Mr L’s additional income from selling on an online marketplace shouldn’t be counted as the amounts he received could differ each month and he would have to split the money with his brother. So, only his salaried income should be used.
- The statements provided by Mr L shows that in the months leading up to the loan he made on average around £1,500 per month from the marketplace. Even with this added to Mr L’s income it doesn’t come close to £6,000 per month.
- His credit report showed defaults and missed payments – and regardless of how old the defaults are, these are an indication of repayment problems.
- Given the amount of income Lending Stream believed Mr L had and the disposable income figure it worked out it would make no sense for Mr L to have taken loan.

As no agreement could be reached, the complaint has been passed to me for a decision.

What I’ve decided – and why

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

We’ve set out our general approach to complaints about this type of lending - including all the relevant rules, guidance and good industry practice - on our website. And I’ve used that to help me decide this complaint.

Lending Stream had to assess the lending to check if Mr L could afford to pay back the amount he’d borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances of the application. Lending Stream’s checks could’ve taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mr L’s income and expenditure.

With this in mind, I think in the early stages of a lending relationship, less thorough checks might have been proportionate. But certain factors might suggest Lending Stream should have done more to establish that any lending was sustainable for Mr L. These factors include:

- Mr L having a low income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- The amounts to be repaid being especially high (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- Mr L having a large number of loans and/or having these loans over a long period of time (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable);
- Mr L coming back for loans shortly after previous borrowing had been repaid (also suggestive of the borrowing becoming unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable for Mr L. The investigator didn't consider this applied in Mr L's complaint because only one loan was granted, and I agree with this.

Lending Stream was required to establish whether Mr L could *sustainably* repay the loan – not just whether he technically had enough money to make his repayments. Having enough money to make the repayments could of course be an indicator that Mr L was able to repay his loan sustainably. But it doesn't automatically follow that this is the case.

I've considered all the arguments, evidence and information provided in this context, and thought about what this means for Mr L's complaint. I'm sorry to hear about the change in Mr L's health.

As part of the application Mr L declared a monthly income of £6,000 from full time work. Lending Stream then says in the final response letter;

"We asked you if you were working and how much you earned. This was so we could make sure we knew if you had a stable income. If required, we would confirm that this monthly income was right with an independent company."

I know from the information provided by Lending Stream that no adjustment was made to Mr L's income and so for the affordability assessment it used a monthly income figure of £6,000.

To start with its worth saying that unless Lending Stream knew or ought reasonably to have known otherwise, it was entitled to rely on the information that Mr L provided it. And so at the start of the lending relationship it was reasonable, for Lending Stream to have accepted what it was being told and provided with was accurate information.

And this is the crux of the issue, Mr L has said an income of £6,000 wasn't accurate and he's provided evidence to show this. His actual salary from his employer was around £1,200 per month. And even taking account of the extra money he earned from selling items on a marketplace doesn't bring the income to anywhere near the £6,000 he declared.

Lending Stream has confirmed it used a well know tool provided by a credit reference agency to gauge the accuracy of the income. To be clear, Lending Stream didn't see or review bank statements but relied on the results that it received from the credit reference agency about Mr L's income.

Lending Stream says the information it received suggested the income was accurate and that is why no adjustments were made to it. I would not have expected Lending Stream to have asked for or reviewed bank statements for this loan as that would have been disproportionate.

I would say that given my understanding of how the income check works, its likely Lending Stream was told the income was accurate. And having seen the bank statements provided by Mr L, these show that in the month before the loan was approved, his account received more than £8,000 of credits.

I accept that it's a combination of income, money received from selling and from moving money between different accounts. But a high level review would've suggested that Mr L's income was likely accurate – whether or not in reality it was – Lending Stream was nonetheless entitled to accept the income Mr L had declared.

So, although I know from the information received as part of my review of the complaint from Mr L that his income wasn't accurate – it wasn't the case that Lending Stream just accepted what it was told. It took reasonable and proportionate steps to check this income, and while the amount it did use for its affordability assessment wasn't accurate it didn't and couldn't have known that at the time. It was therefore entitled to rely on what it was told by both Mr L and the income check that it carried out.

Mr L also declared monthly outgoings of £525. This was broken down as £375 for "*normal expenses*" with £150 being attributed to "*credit- specific expenses*". Lending Stream says it looked at other information such as statistics that relate to the general population and it considered how much people typically spend with their income.

Having carried out this further check, Lending Stream increased Mr L's normal expenses by £672.50 and increased Mr L's credit commitments but a further £436.42. So, in total, for its affordability assessment Lending Stream believed Mr L's total monthly outgoings came to £1,633.92. The loan therefore looked affordable on the income level Mr L had given it.

While some of the information Mr L provided may not have been entirely accurate, there wasn't anything in what Lending Stream was provided with or what it found out from its checks to have made it realise that. Lending Stream could only base its decision to lend on the information it received and gathered. For a first loan, I think it was entirely proportionate for it to use the income and expenditure figures provided by Mr L (along with the adjustment) without the need to verify it further.

Before the loan was approved, Lending Stream also carried out a credit search and it has provided the Financial Ombudsman with a summary spreadsheet of the results it received from the credit reference agency. I want to add that, although Lending Stream carried out a credit search, there isn't a regulatory requirement to do one, let alone one to a specific standard.

Lending Stream was also entitled to rely on the information it was given by the credit reference agency. So, I've looked at the results to see whether there was anything contained within it that would've either prompted Lending Stream to have carried out further checks or possibly have declined Mr L's application.

Lending Stream was told that Mr L had defaulted on eight accounts previously, but the most recent one had been reported 12 months before the loan start date. Lending Stream didn't know when the other seven had been reported as being in default.

I've thought about this carefully, as the default was fairly close to the loan being approved, but I've had to weight this up against this being the first loan and the checks Lending Stream had done indicated it would be affordable. Overall, I think it was just about reasonable, for Lending Stream to have approved the loan without looking into these defaults any further given the amount of time that had passed.

Lending Stream was told that the monthly credit commitments Mr L had was around £287 – but for its affordability assessment it has used a larger monthly amount of £586.42 – so I think that is likely a more accurate reflection given that Lending Stream knew that in total Mr L already had nearly £23,000 worth of existing debt. But Lending Stream didn't know what accounts this debt was held on such as credit cards, store cards or existing loans.

I'm sorry to hear about Mr L's gambling. I've thought carefully about this, but at the time Lending Stream advanced the loan it didn't and couldn't have known about Mr L's gambling. I say this because there wasn't anything in the information Mr L gave or in the information Lending Stream received to suggest that he was spending his money gambling.

Taking account of the size of the loan and what else Lending Stream it would've been disproportionate of it to have asked and or reviewed Mr L's bank statements.

This was the first and only loan, I think it was reasonable for Lending Stream to have relied on the information Mr L provided to it – which showed he had sufficient disposable income to afford the repayments. There also wasn't anything to suggest that Mr L was having either current financial difficulties or to indicate the loan repayments would be unsustainable for him.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think Lending Stream lent irresponsibly to Mr L or otherwise treated him unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

I am therefore not upholding Mr L's complaint about Lending Stream's decision to lend to him.

My final decision

For the reasons I've outlined above, I do not uphold Mr L's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 2 January 2025.

Robert Walker
Ombudsman