DRN-5238128

The complaint

Mr D complains that Gain Credit LLC trading as Lending Stream ("Lending Stream") gave him loans without carrying out sufficient affordability checks.

What happened

A summary of Mr D's borrowing can be found below.

loan number	loan amount	agreement date	repayment date	number of monthly instalments	largest repayment per loan
1	£550.00	21/05/2021	22/08/2021	6	£196.27
2	£500.00	17/09/2021	29/04/2022	6	£181.73
3	£110.00	03/10/2021	07/03/2022	6	£36.17

The "*highest repayment*" column above is the largest payment per loan, but of course where loans overlapped the total cost to Mr D would be greater. For example, when loans 2 and 3 were running at the same time, Mr D would need to pay Lending Stream £217.90 per month.

Following Mr D's complaint Lending Stream wrote to him to explain why it wasn't going to uphold the complaint. Mr D referred the complaint to the Financial Ombudsman.

The case was then considered by an investigator, and in her assessment she explained why she thought Lending Stream had carried out proportionate checks which showed the loans to be affordable.

Mr D didn't agree with the assessment, saying, in summary;

- Lending Stream didn't fully account for Mr D's existing credit commitments.
- The calculated disposable income wasn't reflective of Mr D's financial position.
- Lending Stream's checks didn't take account of the fact that Mr D took three loans fairly quickly.
- Mr D is concerned about the implications of Lending Stream's lending practice on other borrowers.
- Mr D said he would be able to provide copy bank statements to demonstrate his financial position at the time.

These comments didn't change the investigator's mind as no agreement could be reached the case has been passed to me to decide.

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.

Lending Stream had to assess the lending to check if Mr D could afford to pay back the amounts he'd borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances of the applications. 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 D'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 D. These factors include:

- Mr D 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 D 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 D 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 D. The investigator didn't believe this applied to Mr D's complaint. I agree, considering the amounts lent and the gap in lending.

Lending Stream was required to establish whether Mr D could *sustainably* repay the loans – 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 D was able to repay his loans 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 D's complaint.

Mr D is concerned about the wider implication of Lending Stream's policies, but my role is to give what I consider to be a fair and reasonable answer in the circumstances of this complaint. So what impact, if any, is had on other lenders, isn't something that I can make a finding about. Instead, I'm looking at whether Lending Stream did or did not conduct proportionate checks before it lent to Mr D.

Loans 1 – 3

As part of his application for these loans, Mr D declared to Lending Stream his income was between £1,435 and £1,500 per month. He also declared monthly outgoings of between £200 and £250 each month – which included existing credit commitments.

However, Lending Stream didn't just rely on what it was told by Mr D. Lending Stream says it used a third party to check the accurate of what Mr D declared and having made these checks, it decided Mr D had over estimated his income. As a result, it reduced Mr D's declared income for loans 2 and 3 by around £130. I don't think this was an unreasonable course of action to have taken especially if Lending stream had evidence that maybe Mr D's income wasn't as large as he had declared.

Lending Stream also cross referenced Mr D's declared outgoings. Lending Stream says it looked at 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 made adjustments to each loan application by adding at least a further £234 to Mr D's regular living costs. This took his regularly living expenses up to a maximum of £487 per month – when loan 2 was granted.

Before each 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'd also add that there is no regulatory requirement for a credit search to be carried out, 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 D's application.

Firstly, the results don't show any adverse credit file data for any of the loans – there were no defaults or missed payments. Indicating that Mr D was maintaining his repayments to his existing creditors without any obvious signs of difficulties.

For these loans Lending Stream was told that Mr D had at least 16 active credit accounts owing no more than £6,400 to other creditors. From the results it doesn't seem to have been aware of the type of accounts these were – such as current account, store cards, credit cards or other high cost credit. But for these loans I don't think Lending Stream needed to have investigated these active accounts any further.

Equally, when these loans were approved, at most Lending Stream was told that Mr D's monthly credit commitments were £274 – which was significantly more than he had declared as part of his application which was around £25 per month. But I can see that as part of its affordability assessment Lending Stream factored in the known increased costs – and uplifted the figures Mr D provided to better reflect the information it saw in the credit search.

This was the correct approach to take, but even with the uplifts Lending Stream applied to both the monthly living costs and credit commitments – Mr D still had more than enough disposable income with which to afford his loan repayments.

I've also thought the fact that when loans 2 and 3 were running concurrently Mr D now had monthly commitments to Lending Stream of around £217 – which was marginally more than when he had loan 1 outstanding. I've also considered that loans 2 and 3 were approved fairly close together – just a matter of weeks later.

In some situations, these factors may have been sufficient to have prompted further checks. But in the individual circumstances of this complaint given this was the first time Mr D had loan terms running concurrently, the amounts Mr D borrowed and what Lending Stream discovered from its checks then I'm satisfied the lending pattern wouldn't have been of a concern to Lending Stream.

Overall, there also wasn't anything in the information that Lending Stream obtained that would've led it to conclude that it needed to have carried out further checks and so I don't think it would've been appropriate to have reviewed Mr D's bank statements. In my view, Lending Stream carried out proportionate checks which demonstrated to it that Mr D would likely be in a position to afford to take on these loans. I am therefore not upholding his complaint.

Taking everything into account, I am not upholding Mr D’s complaint about these loans.

Finally, 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 D 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.

My final decision

For the reasons given above, I am not upholding Mr D’s complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr D to accept or reject my decision before 6 March 2025.

Robert Walker
Ombudsman