

The complaint

Mr H complains that Gain Credit LLC trading as Drafty ("Drafty") gave him a line of credit without carrying out the appropriate affordability checks.

For ease, in my decision I will refer to Mr H when talking about him or his representative.

What happened

Mr H was granted a running credit facility by Drafty on 17 May 2022. This was for £550 and the limit remained the same while he held the facility.

Mr H was given a running credit account where he could either request funds up to his agreed credit limit in one go or could take multiple drawdowns up to the limit. He was also able to borrow further, up to the credit limit, as and when he repaid what he owed.

Mr H withdrew the agreed credit limit once the facility was approved and made a further six drawdowns. But he defaulted repaying after April 2023 and the account was suspended. The outstanding debt was subsequently sold to a third-party debt collection agency.

In December 2024 Mr H (via a representative) complained to Drafty that it had failed to conduct proportionate checks before granting the facility.

Following Mr H's complaint, Drafty wrote to him in a final response letter on 23 January 2025 and explained it wasn't upholding the complaint. Drafty explained the information it had gathered from Mr H before it approved the facility. It concluded that given the estimated monthly repayment, Mr H was likely to be able to afford it. Unhappy with this response, Mr H referred the complaint to us in January 2025.

Our investigator thought Drafty could have looked at the credit checks in more detail but was satisfied, even if it had, it would have still approved the facility and didn't uphold Mr H's complaint.

Mr H didn't agree with the outcome and as no agreement could be reached, Mr H's complaint 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.

Having looked at everything I've decided to not uphold Mr H's complaint for the same reasons as the investigator and I've explained why below.

I'm aware that I've summarised this complaint above in less detail than it may merit. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues

here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome. I will, however, refer to those crucial aspects which impact my decision.

Lastly, I would add that where the information I've got is incomplete, unclear or contradictory, I've to base my decision on the balance of probabilities.

I've also taken into account the law, any relevant regulatory rules and good industry practice at the relevant time – which includes section 5.2A of CONC which Mr H had highlighted. Drafty had to take proportionate steps to ensure a consumer would've been able to repay what they were borrowing in a sustainable manner without it adversely impacting on their financial situation. Put simply the lender had to gather enough information so that it could make an informed decision on the lending.

Although the guidance didn't set out compulsory checks it did list a number of things Drafty could take into account before agreeing to lend. The key thing was that it required the checks to be proportionate.

Any checks had to take into account a number of different things, such as how much was being lent and when what was being borrowed was due to be repaid. I've kept all of this in mind when thinking about whether Drafty did what it needed to before agreeing to Mr H's Drafty facility.

As explained, Mr H was given an open-ended credit facility. Overall, I think that means the checks Drafty carried out had to provide enough for it to be able to understand whether Mr H would be able to both service and then repay his facility within a reasonable period of time. Drafty also needed to monitor Mr H's repayment record for any sign that he may have been experiencing financial difficulties.

What happened when Drafty approved the facility

As explained, Mr H was provided with a facility where there was an expectation that he'd repay what he borrowed plus the interest due within a reasonable period. What constitutes a reasonable period is laid out in the regulations but it's important to note that this will always be dependent on the circumstances of the individual case.

Mr H was granted a facility with a £550 credit limit. In the credit agreement, a hypothetical situation is laid out to show the potential cost of the facility to Mr H. This hypothetical situation assumed Mr H did the following:

1. drew down his maximum credit limit on the first day of the facility being provided,
2. he kept to the terms of the agreement, and
3. Mr H repaid what he owed in 12 monthly instalments.

Had Mr H done that, he'd have repaid Drafty a total of £745.73 meaning twelve monthly repayments of around £62.

So, in these circumstances, I think Drafty needed to carry out reasonable and proportionate checks to understand whether Mr H could make monthly repayments of around £62 at an absolute minimum.

Drafty says it agreed to Mr H's application after he'd provided details of his monthly

income and expenditure and it carried out a credit check. Mr H declared he worked full time and received an income of £1,980 per month. Drafty says this was independently verified with a third party. Mr H also declared monthly outgoings of £900. And this would have given Mr H a disposable income of £1,080.

The information Mr H declared to Drafty, showed he had enough disposable income each month in which to service and repay the facility. For the start of this relationship, I think it was entirely fair and proportionate for Drafty to have relied on the information Mr H declared to it about his living costs.

Drafty also carried out a credit check before the facility was granted, and it has provided the Financial Ombudsman with a summary of the results.

The results showed that Mr H had 18 active credit accounts, with no mortgage account, owing £13,485 to his creditors and that he was paying £328 monthly towards this debt - although this didn't include any mortgage or revolving credit payments. According to the results of the credit checks, Mr H had seven defaults amounting to £10,046 along with nine delinquency markers on his credit file with delinquency balances totalling £10,613.

The last default had been applied to Mr H's credit file 12 months prior to the application but the last delinquency marker had been applied near to the time Mr H applied for the facility. Our investigator said she thought Drafty should have looked into Mr H's credit file in a bit more depth and I agree. But I also agree that had Drafty done so, it would have still approved the facility. I say this as the last default was in May 2021, with two missed repayments on credit cards just before the facility was approved but Mr H brought his accounts up to date a few months before the application and had been managing the repayments, including token payments to some of his defaulted debts.

Drafty told us that it made adjustments after it verified his income and expenditure and estimated that Mr H had enough disposable income, £643, left over each month to be able to sustainably afford the facility. And I agree. Lenders have a right to rely on the information they find during these checks and given the modest credit limit of £550, the adjustment Drafty made to Mr H's declared expenditure and the fact it verified his income, overall, I think Drafty made a fair and reasonable decision to provide the facility.

Monitoring the facility

Although I don't think Drafty was wrong to have initially provided the facility, that wasn't the end of its obligations to Mr H. At the time, Drafty was regulated by the FCA, and it issued guidance on this type of lending and what it says should be expected from lenders when granting these types of loans. Within the Consumer Credit Sourcebook (CONC) section 6.7.2R says:

"(1) A firm must monitor a customer's repayment record and take appropriate action where there are signs of actual or possible repayment difficulties"

CONC 1.3 provides a non-exhaustive list of some indicators, which when present in a consumer's circumstances, could be suggestive of potential financial difficulties. In practice, CONC 6.7.2(1)R meant Drafty needed to be mindful of Mr H's repayment record and how he used the facility and step in if and when he showed signs of possible repayment difficulties.

Having reviewed the transaction data, I think Drafty did this. Mr H withdrew the credit available after the facility was approved and made six further withdrawals, the last being on 1 March 2023. And Mr H stopped making repayments to the account with his last payment

being on 28 April 2023. Drafty soon after suspended Mr H's account which is what we'd expect a lender to do where there is evidence of financial difficulties.

So, on balance, I'm satisfied Drafty did monitor Mr H's repayment record and did take appropriate action when he showed signs of financial difficulty when it suspended the facility which prevented Mr H being able to make any further drawdowns.

Overall, having reviewed the information provided to the Financial Ombudsman I have decided to not uphold Mr H's complaint. I appreciate he will be disappointed by this, but I hope he has an understanding of why I've reached those conclusions. I'm sorry to hear of Mr H's financial difficulties and do hope his financial situation has improved.

Did Drafty act unfairly in any other way

I've also considered whether Drafty acted unfairly or unreasonably in any other way, including whether the relationship between Mr H and Drafty might have been unfair under Section 140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think Drafty lent irresponsibly to Mr H 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'm not upholding Mr H's complaint against Gain Credit LLC trading as Drafty

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 7 May 2025.

Paul Hamber
Ombudsman