

The complaint

Mr S 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 S when talking about him or his representative.

What happened

Mr S was granted a running credit facility by Drafty on 15 May 2022. This was for £1,790 and the limit remained the same while he held the facility.

Mr S 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.

In December 2024 Mr S complained to Drafty that it had failed to conduct proportionate checks before granting the facility.

Following Mr S’s complaint, Drafty wrote to him in a final response letter on 14 January 2025 and explained it wasn’t upholding the complaint. Drafty explained the information it had gathered from Mr S before it approved the facility. It concluded given the estimated monthly repayment; Mr S was likely to be able to afford it. Unhappy with this response, Mr S referred the complaint to us in January 2025.

Our investigator thought the checks Drafty conducted before granting this facility were proportionate and didn’t uphold Mr S’s complaint.

Mr S didn’t agree with the outcome saying the default and delinquency markers on his credit file should have prompted Drafty to request further checks. The investigator explained why these points hadn’t changed her mind and as no agreement could be reached, Mr S’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.

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 S 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 S's Drafty facility.

As explained, Mr S 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 S would be able to both service and then repay his facility within a reasonable period of time. Drafty also needed to monitor Mr S's repayment record for any sign that he may have been experiencing financial difficulties.

What happened when Drafty approved the facility

As explained, Mr S was given 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 S was granted a facility with a £1,790 credit limit. In the credit agreement, a hypothetical situation is laid out to show the potential cost of the facility to Mr S. This hypothetical situation assumed Mr S 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 S repaid what he owed in 12 monthly instalments.

Had Mr S done that, he'd have repaid Drafty a total of £2,427 meaning twelve monthly repayments of around £202.

So, in these circumstances, I think Drafty needed to carry out reasonable and proportionate checks to understand whether Mr S could make monthly repayments of around £202 at an absolute minimum.

Drafty says it agreed to Mr S's application after he'd provided details of his monthly income and expenditure and it carried out a credit check. Mr S declared he worked full time and received an income of £2,747 per month. Drafty says this was independently verified with a third party. Mr S also declared monthly outgoings of £1,500. And this would have given Mr S a disposable monthly income of £1,247.

The information Mr S 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 S 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 S had 17 active credit accounts, with a mortgage account, owing £27,663 to his creditors, owing £143,471 on his mortgage and that he was paying £382 monthly towards this debt. According to the results of the credit checks, Mr S had no defaults or delinquency markers on his credit file.

Our investigator concluded that she thought Drafty conducted proportionate checks when it concluded that the credit facility was affordable for Mr S, and I agree. I say this as there was nothing of concern that would have caused Drafty to carry out further checks. There were no defaults or delinquency markers on his credit file and from the information Drafty had, it appeared the lending was affordable.

Mr S told us that in fact, he had both defaults and delinquency markers on his credit file along with additional lending that hadn't shown on the credit checks that Drafty completed. There can be a number of reasons for this such as, adverse information being added after Drafty had granted the facility, depending on the type of credit.

But I can't hold Drafty responsible for what the credit checks it conducted didn't show as ultimately, businesses should be able to rely on the information both credit checks and consumers provide. It's not entirely clear why this information wasn't available to Drafty. But a lender has a right to rely on the information it receives from the Credit Reference Agencies.

Mr S had informed Drafty that his monthly expenditure amounted to £1,500 and with this information and the statistical information Drafty used, it made adjustments which left around £861 – and even this smaller disposable income looked affordable. So, I think it would've been reasonable for Drafty to have concluded from the credit check results, that it appeared the lending was affordable. I appreciate that the reality of Mr S's financial situation may have been different, but I think the checks Drafty did conduct were proportionate and commensurate with what Mr S had told it and what the data from the CRA showed.

Mr S told us that Drafty should have conducted further checks before Drafty granted the facility to confirm he could afford it. But I don't agree. The Financial Conduct Authority (FCA) guidelines are not prescriptive about what checks a business has to complete before it makes a lending decision, so long as it is reasonable and proportionate.

Drafty told us that it verified his income and expenditure and that Mr S had enough disposable income left over each month to be able to sustainably afford the facility. And I agree. Despite the discrepancy between the results of the credit checks, Drafty concluded that Mr S had enough disposable income to be able to afford the facility and lenders have a right to rely on the information they find during these checks.

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 S. 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, which could be suggestive of potential financial difficulties. In practice, CONC 6.7.2(1)R meant Drafty needed to be mindful of Mr S’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 S drew down the entire credit limit on 28 July 2022 and made ten repayments but stopped after the last payment made on 29 August 2024 Drafty soon after suspended Mr S’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 S’s repayment record and did take appropriate action when he showed signs of financial difficulty when it suspended the account. The outstanding amount owed is now with a third party debt collection agency.

Overall, having reviewed the information provided to the Financial Ombudsman I have decided to not uphold Mr S’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 S’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 S 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 S 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 S’s complaint against Gain Credit LLC trading as Drafty.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr S to accept or reject my decision before 12 June 2025.

Paul Hamber
Ombudsman