DRN-5450552

The complaint

Miss P says Gain Credit LLC trading as Lending Stream provided her with three loans that were unaffordable for her.

What happened

Lending Stream provided Miss P with three loans as follows:

Loan number	Loan amount	Agreement date	Loan term (days)	Repayment amount
1	£200	27 February 2020	169	£50.03
2	£100	25 March 2020	175	£31.53
3	£300	28 March 2020	175	£95.75

In May 2024, Miss P – via a professional representative (PR) – complained to Lending Stream about its decision to lend. The reasons for doing so are familiar to both sides so I don't intend to repeat them here.

In June 2024, Lending Stream issued its final response in which it did not uphold the complaint.

Unhappy with this, PR on behalf of Miss P, referred the complaint to our service.

One of our investigators reviewed Miss P's complaint. They didn't think Lending Stream had treated Miss P unfairly with regards to Loan 1. However, our investigator did uphold Miss P's complaint regarding Loans 2 and 3. In short, they recommended the complaint be upheld in part.

PR, on behalf of Miss P, accepted our investigators findings.

Lending Stream agreed with our investigators conclusion about Loan 3. But it did not agree regarding Loan 2. And, in doing so, provided its reasons why.

As an agreement couldn't be reached, the complaint was passed to me to review afresh.

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 done so, I've reached the same outcome as our investigator. I'll explain why.

<u>Loan 1 – 27 February 2020</u>

Our investigator did not uphold Miss P's complaint about Loan 1. And, as I set out in the prior section PR, on behalf of Miss P, accepted our investigators findings. What's more, Lending Stream only disagreed with our investigator insofar as their findings relate to Loan

2. So, it seems Loan 1 is no longer in dispute. With that being the case, I see no reason to say much on this issue.

However, for completeness, I agree with the overall outcome our investigator reached with regards to Loan 1 – and for the same reasons. This being that Lending Stream carried out reasonable and proportionate checks prior to agreeing to lend, and there was nothing within the information Lending Stream gathered which suggested Loan 1 was unaffordable for Miss P. So, like our investigator, I don't think Lending Stream acted unfairly when providing Loan 1.

<u>Loan 2 – 25 March 2020</u>

The Financial Ombudsman Service has set out its general approach to complaints about irresponsible and unaffordable lending on its website.

In essence, Lending Stream needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Miss P could repay the loan repayments when they fell due and without the need to borrow further.

These checks weren't prescriptive but could take into account a number of different things such as how much was being lent, the repayment amounts and the consumer's income and expenditure.

So, in keeping with the information on the Financial Ombudsman Service's website, I think there are a number of overarching questions I need to consider when deciding a fair and reasonable outcome given the circumstances of this complaint:

> 1. Did Lending Stream carry out reasonable and proportionate checks to satisfy itself that Miss P was likely to have been able to repay the borrowing in a sustainable way?
>
> > i. If Lending Stream carried out such checks, did it lend to Miss P responsibly using the information it had?
>
> Or
>
> > ii. If Lending Stream didn't carry out such checks, would the requisite checks have demonstrated that Miss P was unlikely to have been able to repay the borrowing in a sustainable way?
>
> 2. If relevant, did Miss P lose out as a result of Lending Stream's decision to lend to her?

Did Lending Stream carry out reasonable and proportionate checks?

Prior to agreeing to lend, Lending Stream searched Miss P's credit file. I can also see that Miss P was asked to provide details of her income and expenditure. Lending Stream made adjustments to Miss P's declared expenditure based on available statistics that relate to the general population and based what it found on Miss P's credit report.

It wasn't a particularly large loan, and the monthly repayments were not substantial in relation to Miss P's declared income. And it was repayable over a reasonably short period of time. With all of this in mind, like our investigator, I think Lending Stream proceeded with a proportionate amount of information.

However, as I've said before, once Lending Stream had the information it thought it needed, it then had to evaluate it because it still had to reasonably assess whether Miss P could afford to meet the loan repayments in a sustainable way over the term of the loan.

Did Lending Stream lend to Miss P responsibly using the information it had?

As part of her lending application, Miss P declared to Lending Stream her income was £1,700 per month – this being slightly higher than the figure she declared during her application for Loan 1 a month earlier. She also declared outgoings of £925 per month which is the same as the figure she declared during her application for Loan 1. Lending Stream made an upward adjustment to the declared expenditure which, as I've said, was based on available statistics that relate to the general population and based what it found on Miss P's credit report. Having done so, it increased her expenditure to £1,603.26 which included the lending in question.

As a result, it looked like Miss P had £96.74 disposable income. So, Lending Stream was satisfied that the loan repayments for this loan should've been affordable for Miss P on a simple pounds and pence basis.

Like our investigator, I do have some concerns about the level of disposable income Lending Stream calculated and the lack of room for manoeuvre it would afford Miss P in the event of unexpected costs or expenses. I've thought carefully about this because I can foresee a situation where being left with that amount of money wouldn't have been sufficient for Lending Stream to have believed the payments could be sustainable. But it's also important to remember that this will depend on the individual circumstances of each complaint. So, I've thought about what else Lending Stream understood about Miss P's financial situation.

As I've said, Lending Stream also carried out a credit search and it has provided our service with a summary spreadsheet of the results it received from the credit reference agency.

The results show Miss P had 21 active accounts with a total unsecured indebtedness of £21,753, which is not insignificant relative to her declared income. But, what's more, it looks like Miss P's debts had increased by a little under £10,000 since her application for Loan 1 just a month earlier. I think the fact Miss P was returning to Lending Stream for a loan of £100 having recently increased her overall borrowing by £10,000 – allied to the fact she was returning for more credit from Lending Stream just a month after borrowing from it previously - ought to have raised concerns about her financial situation.

But, setting that to one side, the size of unsecured borrowing relative to her declared income, in my view, ought to have indicated to Lending Stream that Miss P was overindebted.

In addition, Lending Stream ought to have realised that Miss P was committed to spending around £426.26 towards her existing debts (including the lending in question). As a result, she would be using around 25% of her declared monthly income to meet the repayments due. This was such a significant proportion of her income each month that in reality, this loan, and any further lending, wasn't likely to be sustainably affordable for her.

Finally, I note the results of the credit check showed Miss P had a total of 15 defaulted/delinquent accounts with a total value of £11,470. I recognise the most recent default was applied 51 months prior to the lending in question and, therefore, Lending Stream would, quite reasonably, have cause to consider these historic debts. But the defaulted balance was still substantial over four years after the last default was applied. I accept this may be because Miss P was repaying a nominal sum (or not paying anything at all) towards the defaulted balances by choice, but given everything else Lending Stream saw from the credit report, it seems an equally likely possibility that it was because she simply couldn't afford to repay more which may point to someone still experiencing financial difficulties.

It is in this context that, like our investigator, I think the disposable income Lending Stream calculated ought to have given it cause for concern about Miss P's ability to affordably and sustainably repay the borrowing in question without undue difficulty.

For these reasons, I don't think Lending Stream should have agreed to make the loan to Miss P.

Loan 3 – 28 March 2020

Our investigator upheld Miss P's complaint about Loan 3. In response, both PR on behalf of Miss P and Lending Stream accepted our investigators findings with regards to this loan. So, it seems Loan 3 is no longer in dispute. With that being the case, as with Loan 1, I see no reason to say much on this issue.

However, for completeness, I agree with the overall outcome our investigator reached with regards to the Loan 3 – and for the same reasons.

Having carefully considered everything that has been said by both parties, I don't think Lending Stream acted fairly when it approved Loan 2 and Loan 3. Therefore, I uphold this complaint and direct Lending Stream to put things right in the way I have set out below.

Did Lending Stream act unfairly or unreasonably in some other way?

In reaching my conclusions, I've also considered whether the lending relationship between Lending Stream and Miss P might have been unfair to Miss P under section 140A of the Consumer Credit Act 1974.

However, I'm satisfied that what I'm directing Lending Stream to do results in fair compensation for Miss P given the overall circumstances of his complaint. For the reasons I've explained, I'm also satisfied that, based on what I've seen, no additional award is appropriate in this case.

Putting things right

It's reasonable for Miss P to have repaid the capital amount that she borrowed as she had the benefit of that money. But she has paid interest and charges on two loans that shouldn't have been given to her. So, she has lost out and Lendable must put things right.

It is my understanding that the debt has been sold to a third party. In line with our standard approach to such cases, Lending Stream should buy the debt back if it has in fact sold it, and then take the following steps. If it is not able to buy the debt back, then it should liaise with the new debt owner to achieve the results outlined below.

To settle this complaint Lending Stream should:

- Rework Loan 2 and Loan 3 removing all interest and charges that have been applied. Deduct any payments made by Miss P for these loans from the remaining amount.

- If Miss P has paid more than this amount any overpaid balance should be refunded to her plus *8% simple interest (calculated from the date the overpayments were made until the date of settlement).

- If Miss P hasn't paid enough to settle the capital balance Lending Stream should work with her to agree an affordable repayment plan.

- Remove any adverse information recorded on Miss P's credit file in relation to Loan 2 and Loan 3, once any outstanding capital balance is repaid.

*HM Revenue & Customs requires Lending Stream to deduct tax from this interest. Lending Stream should give Miss P certificate showing how much tax it's deducted, if she asks for one.

My final decision

For the reasons I've explained, my final decision is that I uphold Miss P's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 4 September 2025.

Ross Phillips
Ombudsman