

The complaint

Mr W argues that Gain Credit LLC trading as Drafty gave him credit he couldn't afford to repay.

What happened

In November 2018 Drafty agreed a £1,000 line of credit for Mr W. The account was subsequently terminated and Mr W was issued with a default notice in June 2019 as he had stopped making the repayments due. The outstanding balance was subsequently sold on to a third party.

Mr W argues he shouldn't have been given the facility by Drafty. He says he was overindebted with a number of existing credit commitments. He argues that if Drafty had completed proportionate checks, it would have seen he couldn't have afforded to repay the credit in question.

Drafty disagreed with Mr W's complaint. It argued it had completed proportionate checks and having done so, it was reasonable to lend to Mr W.

One of our investigators considered the complaint, but didn't uphold it. Mr W didn't agree and so the complaint has been passed to me to consider.

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 explained how we handle complaints about unaffordable and irresponsible lending on our website. I have used this approach to help me decide Mr W's complaint.

Drafty needed to make sure it lent responsibly to Mr W. It therefore needed to complete sufficient checks to determine if Mr W could afford to sustainably repay the lending. Our website sets out our approach to what we typically think when deciding if a lender's checks were proportionate. There is no set list of checks a lender should do, but there is guidance on the types of checks a lender could complete. However, these checks needed to be proportionate when considering things like the amount and term of the lending, what the lender already knew about the consumer, etc.

Generally, we think that earlier in a lending relationship it would be reasonable for a lender's checks to be less extensive. However, we might expect a lender to do more, for example, if a borrower's income was low or the amount lent was high.

I've read everything that the parties have said, but I'll concentrate my comments on what I think is relevant. If I don't comment on a specific point it's not because I've failed to consider it, but because I don't think I need to comment in order to reach a fair and reasonable outcome. And our rules allow me to do this. This reflects the nature of our service as a free and informal alternative to the courts.

Having considered all the evidence and arguments, I'm not going to uphold this complaint. I can see Mr W made a great deal of effort in relation to this complaint and provided some personal information about his circumstances, which can't have been easy to share. So I do appreciate that this answer will be disappointing to Mr W, however I think it is fair and reasonable in the circumstances of this complaint.

Before agreeing this credit to Mr W, Drafty has said it asked Mr W for details of his regular income and expenditure and completed a credit search. Drafty has said it also checked his expenditure declarations against averages compiled by the Office of National Statistics ("ONS") data and increased it accordingly. I've taken into consideration the amount being lent and what the likely repayments would be to repay the credit limit in full over a reasonable period of time (assuming Mr W would have drawn down the full balance). Having done so, I think the checks completed were proportionate when considering the £1,000 limit which was granted.

I'll now consider if, based on this information, Drafty made a fair lending decision. Mr W declared a monthly income of £2,100 and expenditure of £550. Looking at the amounts Mr W had declared for various expenditure (which total the £550) these do seem quite low. Mr W argues that Drafty should have taken additional steps to verify this given the low amounts and I agree that Drafty had reason to question these declarations given their modest nature.

However, Drafty did take additional steps to verify this with ONS data, increasing his overall expenditure to £888 per month. Mr W has argued that this should have caused Drafty to go further with it's checks and complete independent verification. I've considered this argument, but I don't agree. What needs to be kept in mind is the Drafty is required to complete proportionate checks and when considering that this was a £1,000 line of credit and what Mr W had declared about his income, I think using ONS data was a proportionate step to take.

I understand that Drafty also completed credit searches when making its lending decision and there has been a great deal of debate about the results gathered and the overall score reached. Mr W argues that Drafty hasn't provided all of its results or the information needed to interpret them. He has also provided other credit search results from the time and highlighted a number of discrepancies in the information provided.

Turning to the results Drafty has provided, it completed searches with two different credit reference agencies (obtaining slightly different results from each) and has said it only relied on one set of results. I accept that there is a great deal of confusion surrounding this and it hasn't been helpful that Drafty didn't set out its position regarding the credit file information at the first instance. I can also appreciate that this will have been frustrating for Mr W.

Firstly, I'll start by explaining that Mr W has had access to both sets of the credit search results Drafty gathered and been given the opportunity to comment. I understand there's been some debate about whether Drafty has provided us with full supporting information to enable our service to understand the results. However, I'm satisfied that based on the results I have, the supporting information Drafty has provided and by being able to cross reference with Mr W's separate results obtained from another lender where necessary, I can form a fair and reasonable opinion of what the credit results most likely demonstrated to Drafty.

I'd like to start by explaining that it's not uncommon for different credit reference agencies to have results which may vary slightly, and this can create ambiguities in the information provided. However, as Drafty completed credit searches with two different providers, it's reasonable that it should have considered both sets of information when making it's lending

decision. So I have taken both sets of credit search results, which Drafty gathered, into consideration.

One set of results (arguably the one that showed more adverse information) showed that Mr W had three defaulted accounts. However, they were defaulted several years earlier, so I don't think it would be reasonable to suggest that this demonstrated recent financial problems. There are also three delinquent accounts on this set of results, with the same balance as the default balance, suggesting they are referencing the same historic accounts. I've noted that it states months since delinquency is two months. However, given the amounts are the same I think it's most likely they reflect that the same defaulted accounts. This could potentially be reflected as recent delinquencies because Mr W was still repaying these accounts. This is consistent with Mr W's results from another lender which show three historic defaults.

The same set of results from Drafty also show the total monthly repayment towards existing credit is £682 per month, with total balances outstanding (excluding mortgage accounts) of £7,691. Having considered the total balances in the context of Mr W's income, I don't think this demonstrated that Mr W was concerningly overindebted. I also think if Drafty had used this total repayment for existing credit commitments (£682), together with the ONS data, the credit in question would still have appeared affordable for Mr W.

I have noted Mr W's arguments about the overall credit score and that they are different on the two sets of results Drafty had available. However as demonstrated above, I've looked at what the results showed rather than focusing on a single score and having done so, I still think (based on both sets of results) it was reasonable to lend.

As explained above, Mr W has provided a copy of credit search results from just after this credit was taken out, from another provider. I don't think its reasonable that this should have formed part of Drafty's lending decision, as it wasn't the results Drafty gathered. Furthermore, whilst I note this lender upheld Mr W's complaint in part, that was on an entirely different lending decision and by another lender. I need to review this complaint independently and having done so I don't think it should be upheld.

I appreciate that Mr W has argued his financial circumstances were far more adverse than the checks revealed. However, I have to consider what is proportionate in the circumstances of the lending being given. Having done so, I don't think the information suggested it was unfair for Drafty to lend. I also have noted Mr W has told our service about his health conditions at the time, but he acknowledged that Drafty wasn't aware of these and I don't agree it reasonably should have been. So I don't think he's been treated unfairly as a result of them.

Mr W has also argued that the running of the account should have suggested to Drafty that he was struggling financially. He's highlighted that financial difficulties are a form of vulnerability and Drafty should have taken steps to support him. I can see that Mr W initially withdrew the full credit limit and subsequently made small repayments. On several occasions he then took out the small amounts of available credit, as a result of previous repayments. I think it's fair that after a pattern of this behaviour had emerged it should have been concerning for Drafty. However, I understand Mr W stopped making repayments after April 2019 and the account was subsequently defaulted, stopping Mr W from being able to run the account in this way. And I don't think there was a sufficient pattern of behaviour prior to this time, which should have suggested to Drafty to step in sooner. So I don't think Drafty treated Mr W unfairly with respect to the running of this account.

Finally, I've thought about whether considering this complaint more broadly as a complaint about an unfair relationship would impact on the outcome reached. Having done so, I don't think I can.

In the context of this complaint, the law relating to unfair relationships is described in Section 140 of the Consumer Credit Act 1974 (Section 140). It says a court may make an order under Section 140 if it determines a relationship between the creditor and the debtor is unfair. The consumer is the debtor and Section 140 defines the creditor as "the person to whom his rights and duties under the agreement have passed by assignment or operation of law."

So where a debt has been sold, it follows that the debt purchaser is now the creditor for the purpose of the credit agreement. So a claim about an unfair relationship can't be brought by the consumer against the original lender as they are no longer the creditor."

My final decision

For the reasons explained above, I don't uphold this complaint against Gain Credit LLC trading as Drafty.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 12 August 2025.

Claire Lisle
Ombudsman