

complaint

Mrs W complains that Lending Stream LLC gave her loans she couldn't afford to repay.

background

Mrs W took out the following loans with Lending Stream

	date	£ amount borrowed
1	18 May 2013	215
2	22 May 2013	205
3	14 July 2013	115

In August 2013, Mrs W told Lending Stream she couldn't repay the loans. Lending Stream subsequently sold the three loans to a third party.

Our adjudicator said Lending Stream hadn't carried out proportionate checks before lending to Mrs W and that Mrs W couldn't afford to repay the loans. She set out what Lending Stream should do to put this right. Lending Stream didn't agree with the adjudicator's view, so the complaint was passed to me.

my findings

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 agree with the adjudicator that Lending Stream didn't carry out proportionate checks before lending to Mrs W and that Mrs W couldn't afford to repay the loans. I'll now explain why I've come to those views.

When lending money to Mrs W, Lending Stream was required to ensure she could repay the borrowing in a sustainable manner, without it adversely affecting her financial situation. A lender should obtain sufficient information to make an informed decision about the lending. It's for the lender to decide how it does this. The guidance and rules list a number of things each lender may wish to consider. Checks should be proportionate, based on things like the size of the loan, amongst other things. I don't think Lending Stream carried out sufficient checks here and I'll now explain why.

Before each loan, Lending Stream asked Mrs W about her monthly income and expenditure and did a credit check. Lending Stream recorded Mrs W's income as £1,550 and her expenditure as £880. On the face of it, Mrs W had enough disposable income to repay the loans. But the credit check Lending Stream carried out showed that, at the time of loans one and two, Mrs W had three defaults and three delinquent accounts. That rose to four defaults

and four delinquent accounts at the time of loan three. That indicated that Mrs W might not have been able to repay further borrowing. So, I think Lending Stream should've done more than it did.

In the circumstances here, proportionate checks before loans one and two would've included not only Mrs W's monthly income and expenditure but also her other short-term financial commitments. Lending Stream didn't have to look at Mrs W's bank statements. It could just have easily asked Mrs W for this information.

I think Lending Stream should've gone still further before loan three. That's because Mrs W hadn't repaid loans one and two and her credit report showed four defaults and four delinquent accounts. In those circumstances, proportionate checks are likely to have established a much fuller picture of Mrs W's financial position. I think proportionate checks before loan three would've meant that Lending Stream took steps to verify the information Mrs W provided about her financial situation.

As Lending Stream doesn't appear to have carried out proportionate and sufficient checks, I can't say for sure what it would've found out had it had done so. Mrs W has provided us with evidence of her financial circumstances at the time she applied for the loans. So I've been able to get a picture of what her financial circumstances were like. Of course, I accept that this isn't perfect, as different checks show different things. And just because something shows up in the information Mrs W has now provided, it doesn't mean that it would've shown up in any checks that Lending Stream might've carried out. But the information Mrs W has provided is the best indication I have of what her financial circumstances were at the relevant time. In the absence of anything else, I think it's reasonable to rely on it.

Based on what I've seen, I think proportionate enquires before loans one and two would've shown that Mrs W had taken out several loans from other short-term lenders that she hadn't yet repaid. So, she couldn't afford to repay further borrowing. I've said that, before loan three, Lending Stream should've gone further and verified what Mrs W had told it about her finances. I think if it had done that, it would've seen Mrs W's considerable and repeated spending on gambling and wouldn't have lent to her.

Overall I think the adjudicator's recommendations are a fair and reasonable resolution of this complaint. And I don't see any compelling reason to change the proposed outcome in this case.

I note Lending Stream has sold the debt to a third party. If Mrs W accepts my final decision Lending Stream may have to reacquire her accounts from the third party if it's necessary to do so to provide the redress I've recommended.

my final decision

I uphold this complaint. To put things right I require Lending Stream LLC to;

1. refund to Mrs W all interest and charges she's paid on these three loans,
2. add simple interest at the rate of 8% a year* to each of these amounts, from the date each such sum was paid until the date of settlement (unless the total refund is less than the capital sum due),
3. deduct from the refund any capital sum still due and pay Mrs W any remaining balance and
4. remove any negative information about these three loans from Mrs W's credit file.

* HM Revenue & Customs requires Lending Stream to take off tax from this interest. It must give Mrs W a certificate showing how much tax it's taken off, if she asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 27 October 2017.

Louise Povey
ombudsman