

complaint

Mr H complains that Lending Stream LLC gave him loans he couldn't afford to repay.

background

Mr H took out three loans with Lending Stream between January and March 2014. He says he was also borrowing from other payday lenders and had a gambling problem. He says Lending Stream should have been aware of his poor credit history.

The adjudicator recommended that the complaint should be upheld, saying:

- The checks made by Lending Stream before offering the first two loans, for £300 and £120, were proportionate.
- Lending Stream should have carried out further checks before offering the third loan, of £420. The amount borrowed was substantially greater than the previous loan and the repayment took a large proportion of Mr H's disposable income.
- Mr H's monthly income was about £1,639. His living costs (housing, bills, council tax, food, transport and regular financial commitments) were about £1,396. He didn't have enough disposable income to repay the third loan.

The adjudicator said Lending Stream should agree a suitable repayment plan for Mr H to repay the outstanding balance after interest and fees on the third loan had been refunded. She said it should remove negative information about the third loan from Mr H's credit file.

Lending Stream agreed. Mr H didn't agree. He said Lending Stream shouldn't have offered him the loans. He said it should write off the balance owed.

my provisional findings

I sent a provisional decision to the parties in which I set out the following provisional findings:

Mr H took out a £300 loan in January 2014 and a £120 loan the following day. Repayments totalled £562.80. Mr H told Lending Stream his monthly income was £1,400.

I think the checks made by Lending Stream were proportionate for the first loan. But given the total amount of the repayments and Mr H's stated income, Lending Stream should have asked for more information before offering the second loan. I think it should have asked for things like Mr H's normal living expenses, his regular financial commitments and any short term commitments before offering the second loan. I don't think it was enough to ask Mr H to provide an overall amount for his monthly expenditure.

The first two loans were both repaid in February 2014. In March 2014 Mr H asked for a £420 loan. I think, given the amount of the loan and Mr H's stated income, Lending Stream should have asked for more information about his expenditure, including any short term loan commitments.

Mr H's bank statements show he was borrowing from a number of short term lenders. He borrowed over £1,000 in December 2013 and over £1,200 in January 2014 before taking out the loans with Lending Stream. I don't think further borrowing was affordable or

sustainable and I think Lending Stream would have known this if it had carried out proportionate checks.

I don't think Lending Stream should have agreed to lend the second and third loans to Mr H. So for the second and third loans Lending Stream should:

- *Refund all interest and charges that Mr H paid on the loans;*
- *Pay interest of 8% simple a year on all refunds from the date of payment to the date of settlement*;*
- *Write off any unpaid interest and charges on the second and third loans, apply the refund to reduce any capital outstanding and pay any balance to Mr H;*
- *Remove any negative information about the loans from Mr H's credit file.*

**HM Revenue & Customs requires Lending Stream to take off tax from this interest. Lending Stream must give Mr H a certificate showing how much tax it's taken off if he asks for one.*

Mr H agreed. Lending Stream didn't agree. It said it checks expenditure information against set variables and also requires customers to confirm that information they provide is correct. It didn't know Mr H had misrepresented his expenditure and, based on the information he provided, the second loan was affordable. Lending Stream said it would waive interest and charges on the third loan.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

I've considered the points made by Lending Stream. But, while it's generally entitled to rely on information provided by a customer, this isn't always reasonable or appropriate. Lending Stream asked for Mr H's monthly income and monthly expenditure. The information it received suggested that, after monthly expenses, Mr H had disposable income of £600. The repayments for the first and second loans were £563. In the circumstances, I think Lending Stream should have asked for more information about Mr H's outgoings, including any short term commitments, before offering the second loan. Had it done so, it would have seen that Mr H had short term commitments which meant further borrowing wasn't affordable.

my final decision

My decision is that I uphold this complaint. I order Lending Stream LLC to amend Mr H's credit file and pay the compensation described above to Mr H.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 24 July 2017.

Ruth Stevenson
ombudsman