

complaint

Mrs C complains that Gain Credit LLC (trading as Lending Stream) gave her a loan that she couldn't afford.

background

Mrs C took out a loan for £265 with Lending Stream in February 2012. The loan was repayable over six monthly instalments, with the highest instalment being £132.50.

Mrs C says she was borrowing from other lenders at the same time. And she believes that Lending Stream would have realised this if it had carried out appropriate affordability checks. She says she was using loans to pay off other loans, and this ended up creating a spiral of debt.

Our adjudicator recommended that the complaint should be upheld. In brief, she thought Lending Stream should have realised that Mrs C couldn't afford to repay the loan sustainably. Lending Stream disagreed with the adjudicator's view. So the complaint has been passed to me for final decision.

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've reached the same conclusion as the adjudicator, and for similar reasons.

Lending Stream was required to lend responsibly. It needed to make checks to see whether Mrs C could afford to pay back the loan before it lent to her. Those checks needed to be proportionate to things such as the amount Mrs C was borrowing, the length of the agreement and her borrowing history. But there was no set list of checks Lending Stream had to do.

Before agreeing to make the loan, Lending Stream asked Mrs C for details of her monthly income and expenditure. It also carried out a credit check.

The guidance in place at the time was clear about the responsibility of the lender to take reasonable steps to ensure that a borrower could *sustainably* repay their loans. The Office of Fair Trading (OFT) Irresponsible Lending Guidance states "*Assessing affordability is a borrower-focussed test which involves a creditor assessing a borrower's ability to undertake a specific credit commitment, or specific additional credit commitment, in a sustainable manner, without the borrower incurring (further) financial difficulties.*"

The guidance goes on to say that repaying credit in a sustainable manner means being able to repay credit "*out of income and/or available savings*" and without "*undue difficulty.*" And it defines "*undue difficulty*" as being able to repay credit "*while also meeting other debt repayments and normal/reasonable outgoings*" and "*without having to borrow further to meet these repayments*".

Mrs C told Lending Stream that her monthly take-home pay was £2,500. And her monthly expenditure was £2,300. That meant that she'd only have £200 per month left over before her loan repayments were taken into account. And she'd only have had £67.50 left after making her highest loan repayment of £132.50. So it would only have taken a relatively small one-off or unexpected payment to mean that Mrs C would have to borrow again to keep up with her repayments.

Taking everything into account, I think it should have been clear to Lending Stream that there was a real risk that Mrs C wouldn't be able to afford to repay the loan sustainably. So I don't think it should have lent to her.

In its response to the adjudicator's view, Lending Stream said it understood "*that the disposable income that we have specified is not similar to what you have retrieved from her bank statement*". I would like to stress that my findings are based on the information that Mrs C gave to Lending Stream – as were the adjudicator's comments. I think it should have been apparent to Lending Stream *from the information that Mrs C provided in her application* that the loan was unlikely to be affordable for her.

putting things right

Lending Stream should:

- refund all interest and charges Mrs C paid on the loan;
- pay interest on those refunds at 8% simple* per year from the dates of payment to the date of settlement.
- remove any negative information about the loan from Mrs C's credit file.

*HM Revenue & Customs requires Lending Stream to take off tax from this interest.

Lending Stream must give Mrs C a certificate showing how much tax it's taken off if she asks for one.

my final decision

My decision is that I uphold this complaint. I require Gain Credit LLC (trading as Lending Stream) to put things right by doing as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 23 March 2018.

Juliet Collins
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