complaint

Mr M complains that Gain Credit LLC (trading as Lending Stream) irresponsibly gave him loans he couldn't afford to pay back.

background

Lending Stream gave Mr M 4 loans between September 2016 and April 2017. There was a break in the lending of about six months between repaying loan 1 and taking out loan 2.

A summary of Mr M's lending is as follows:

Loan	Date Taken	Date Repaid	Instalments	Amount	Repayment
1	21/09/2016	04/10/2016	6	£250.00	£106.00
2	01/04/2017	06/04/2017	6	£240.00	£101.76
3	08/04/2017	13/04/2017	6	£300.00	£127.20
4	14/14/2017	Written off 01/11/2018	6	£570.00	£241.68

Mr M says that proportionate checks weren't carried out before the loans were provided. He says if these had taken place Lending Stream would have realised he was reliant on short term loans and gambling heavily and the loans weren't affordable.

Lending Stream says that before the loans were provided it carried out through affordability and credit checks. It verified the information provided by Mr M and on the basis of the information it gathered the lending was affordable.

Our adjudicator thought that there wasn't enough to say that the loans shouldn't have been provided given the amounts involved and Mr M's borrowing and repayment history.

Mr M didn't accept our adjudicator's view and said it was clear that his borrowing pattern and credit report showed he was reliant on other payday lending to repay the borrowing. He said he had been in a debt management plan and accounts with other payday lenders were in arrears. Another adjudicator reviewed this information but still did not conclude that there was a reason to uphold any of the loans.

Mr M asked for an ombudsman to review his complaint.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. We've set out our general approach to complaints about short-term lending - including all of the relevant rules, guidance and good industry practice - on our website.

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 that Mr M could repay the loans in a sustainable manner. These checks 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. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that Lending Stream should fairly and reasonably have done more to establish that any lending was sustainable for a consumer. These factors include:

- the *lowe*r a customer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

I think that it is important for me to start by saying that Lending Stream was required to establish whether Mr M could sustainably repay his loans - not just whether the loan payments were affordable on a strict pounds and pence calculation.

Of course the loan payments being affordable on this basis might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. This is because the Consumer Credit Sourcebook ("CONC"), defines sustainable as being without undue difficulties and in particular the customer should be able to make repayments on time, while meeting other reasonable commitments; as well as without having to borrow to meet the repayments. And it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make their repayments sustainably if they're unlikely to be able to make their repayments without borrowing further.

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mr M's complaint.

I have looked at the information gathered, including income and expenditure information from the time. Mr M said he was earning £820 for loan 1 and £1147 for loans 2 to 4. He said his outgoings were between £150 and £250. There was nothing in the information gathered to suggest that Mr M was struggling to manage his money or that he couldn't afford to repay what he had borrowed. All the loans looked affordable on the figures Mr M gave.
There was a six month gap between loans 1 and 2 which suggested that Mr M wasn't dependent on this credit. Loan 1 was repaid in full and on time and there was no repayment difficulty. Loans 2, 3 and 4 were all taken out and repaid within a very short period of time over 2 weeks. This is unusual and increasing his loans in this way suggests Mr M wasn't responsibly managing his money. But this on its own isn't enough for me to say that the loans were unaffordable. Mr M was borrowing relatively small amounts and there were no difficulties with his repayments. If Mr M had continued to borrow in this way then I would have expected further checking later in the loan chain but not at this stage.

I don't doubt that Mr M was in financial difficulty and was borrowing out of necessity. I sympathise with his situation. But on the basis of the evidence I have seen I can't say that

Lending Stream should have been alerted to his difficulties and not provided the loans. I understand that loans Mr M took out with other lenders have been entered into a debt management plan. I can see from the emails that Mr M sent Lending Stream that this happened in April 2017 at the time he fell into difficulty repaying loan 4.

I don't doubt that Mr M had loans with other short term lenders but these weren't declared to Lending Stream as part of Mr M's outgoings. I can't say that it was reasonable and proportionate to undertake the level of checking that would have revealed these loans given the information Lending Stream had.

When Mr M fell into difficulty he told Lending Stream that he had an unexpected debt. He then explained that he was entering into a debt management plan. Mr M did not repay any interest and charges in relation to loan 5 and a proportion of the capital of around £88 was also written off. Mr M paid around £48 in interest and charges on loans 1 to 3. In these circumstances I think that Lending Stream has acted fairly and reasonably and I can't ask it to do any more.

my final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 10 March 2020.

Emma Boothroyd
ombudsman