

**complaint**

Mr W complains that Gain Credit LLC (trading as Lending Stream) was irresponsible to lend to him.

**background**

Mr W had four loans from Lending Stream between November 2015 and August 2016:

<u>Loan</u>	<u>Date</u>	<u>Amount</u>	<u>Term</u>	<u>Maximum Repayment</u>	<u>Due</u>	<u>Repaid</u>
1	22 Nov 2015	£100	192d	£43.20	31 May 2016	29 Apr 2016
2	3 May 2016	£250	182d	£110.00	31 Oct 2016	3 Jul 2016
3	4 Jul 2016	£600	180d	£278.40	30 Dec 2016	Sold to DCA** 19 Dec 2017
4	13 Aug 2016	£120	172d	£296.64*	31 Jan 2017	Outstanding

\* Maximum monthly repayment over the term of overlapping loans 3 and 4

\*\* Debt Collection Agency

Mr W says Lending Stream failed to carry out effective affordability checks and did not identify that he'd become stuck in a cycle of borrowing.

Lending Stream says it asked Mr W about his income and expenditure for each loan and checked his credit file. It says that none of the information indicated the loans were unaffordable. It offered to set up a repayment plan for the outstanding amount on loan 4.

Our adjudicator recommended the complaint should be upheld. She said that, by loan 4, proportionate checks would most likely have shown that Mr W was having problems managing his money. He recommended that interest and charges should be refunded on loan 4 (plus 8% statutory interest) and that any negative information about the loan should be removed from Mr W's credit file.

Neither party responded to the adjudicator's view.

**my provisional findings**

I issued my provisional decision to Mr W and to Lending Stream on 16 December 2019. I summarise my findings:

- I was satisfied that Lending Stream did proportionate checks for loan 1 which showed the repayments were affordable;
- For loan 2, Lending Stream's credit check showed Mr W had two defaults on his credit file, the latest of which was in the previous three months;
- As a result, I considered Lending Stream should have carried out a full financial review before it approved loan 2. I couldn't see it had done this, so I had a look at what such a review would have found:
  - Mr W had defaulted on four accounts;
  - His credit file showed he had two ongoing debt management plans;
  - Mr W had four other outstanding short-term loans when he applied for loan 2.
- I considered there were clear indications that Mr W was having trouble managing his money and he was unlikely to be able to sustainably repay loan 2. So I didn't think loan 2 should have been approved;

- A full review for loan 3 would have shown that Mr W's financial circumstances were unchanged from loan 2 and he still had at least four outstanding short-term loans. So I considered it was irresponsible for Lending Stream to have approved loan 3;
- When Mr W applied for loan 4, loan 3 was outstanding and he'd missed his first repayment on it. Because of this, the credit check and the number of loans, I still considered a proportionate check should have been a full review. This is likely to have shown Mr W had taken five more short-term loans in the previous three weeks. So I couldn't conclude Lending Stream acted responsibly by approving loan 4.

My provisional decision was that Lending Stream should refund interest and charges on loans 2 to 4 (plus 8% statutory interest) and remove negative information from his credit file.

Both Lending Stream and Mr W accepted my provisional 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.

As both Lending Stream and Mr W accepted my provisional decision, I see no reason to depart from it.

### **my final decision**

My final decision is that I uphold Mr W's complaint. Gain Credit LLC (trading as Lending Stream) should:

- Refund all interest and charges that Mr W paid on loans 2 to 4;
- 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 for loans 3 and 4, apply the refund to reduce any capital outstanding and pay any balance to Mr W;
- Arrange to repay any portion of the sum due to the third party that is made up of interest and charges – including any added by the third party;
- Pay Mr W interest and charges he has already paid to the third party plus 8% interest simple per annum on each amount from the date of payment to the settlement date;
- Remove any negative information about loans 2 to 4 from Mr W's credit file;
- Request the third party to remove adverse information it may have recorded about loan 3, once it has been repaid.

\*HM Revenue & Customs requires Lending Stream to take off tax from this interest. Lending Stream must give Mr W a certificate showing how much tax it's taken off if he asks for one. If Lending Stream intends to apply the refund to reduce any outstanding capital balance, it must do so after deducting the tax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 15 February 2020.

Amanda Williams  
**ombudsman**