

complaint

Miss D complains that Lending Stream LLC wrongly lent her money she couldn't afford to pay back.

background

Miss D took out twenty six short term loans with Lending Stream between July 2015 and November 2016. She said that the business didn't carry out proper affordability checks and allowed her to continue borrowing when she was in financial difficulty. She says that this has led to a spiral of debt and she has had to take out more and more loans.

Lending Stream said that it did carry out checks and the loans were affordable on its criteria. It carried out a credit check and asked Miss D about her outgoings. It explained that it set a higher level for outgoings than it was required to and it was reasonable to rely on what she said.

Our adjudicator recommended that the complaint should be upheld in part. He thought that Lending Stream should have carried out more checks about why Miss D needed to keep borrowing so often. He thought that the fact that Miss D asked for her fifth loan so soon after loans one to four had been repaid indicated she might be in financial difficulty and relying on short term credit. He thought that Lending Stream should've done more checks and if it had it would've seen that all the loans from loan five onwards were unaffordable. He recommended that all interest and charges incurred on these loans should be refunded. Lending Stream agreed to refund interest and charges on fourteen of the loans but Miss D rejected this offer. The complaint has been passed to me to decide.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Before agreeing to lend to Miss D, Lending Stream had to check each time that she could afford to repay the loan. There is no set list of checks that Lending Stream had to carry out. But the checks had to be proportionate to things like – but not limited to – the size of the loan, the repayments and what Lending Stream knew about Miss D.

Lending Stream says it asked Miss D about her income and outgoings and did a credit check before agreeing to lend to her. I don't know what Lending Stream would've seen on Miss D's credit file but I accept it might not be the full credit information.

Looking at the first four loans there was nothing in Miss D's borrowing history that should've alerted Lending Stream to carry out more checks than it did. Miss D said that she was earning between £787 and £810 for these loans and that her outgoings were between £389 and £514. I think the checks were proportionate to the size of the loans, the monthly repayment and Miss D's self declared income and outgoings. Although I haven't seen the results of Miss D's credit check there is nothing adverse such as defaults or late payments that should've prompted further checks and I agree with the adjudicator that it was reasonable to lend.

At the time of application for the fifth loan Miss D had been borrowing consistently each month. Effectively not repaying the capital she had borrowed without borrowing again. This was an indication that Miss D might be reliant on short term credit. I think that Lending Stream should have taken a closer look at Miss D's circumstances before agreeing to lend her any more money. I can't see that Miss D was asked why she needed to borrow so often.

I think that if Lending Stream had asked Miss D in more detail about her situation at the point of the fifth loan it would've seen that she was overly reliant on this sort of credit. I have reviewed Miss D's bank statements for this period and I agree with the adjudicator that this loan and all the following loans were unaffordable given Miss D's other short term commitments and gambling spending. Lending Stream wouldn't have given her these loans if it had carried out these checks.

Lending Stream has said it doesn't ask for bank statements but this isn't the only way of verifying the information that Miss D had given or checking that she wasn't reliant on this lending.

Had Lending Stream asked more questions it would've seen that Miss D was borrowing from other payday lenders and gambling and her declared outgoings figure didn't take these payments into account. Although on the face of it Miss D said she had enough money coming in to meet the repayments her pattern of borrowing from Lending Stream and other lenders suggested that she was overly reliant on short term credit.

Although Miss D took out the loans and said she could afford them I don't think that this is enough for me to say Lending Stream acted responsibly. Miss D wanted and needed the loans because of the debt she was in. Lending Stream ought to have known this was the case at the time of the application for the fifth loan and done more thorough checking of her circumstances.

Even though on the face of it Miss D appeared to be meeting her repayments to Lending Stream, I don't think this is enough to say that the loans were affordable. Miss D was meeting her repayments by borrowing money from other payday lenders and borrowing repeatedly from Lending Stream. The amount of loans taken out by Miss D were clearly unaffordable and unsustainable given her other short term lending and outgoings. Relying on what Miss D said about her outgoings without carrying out more robust checking was irresponsible.

I have looked at Miss D's bank statements for this period and it is clear that she was spending more on repaying credit and her gambling and living expenses than she was earning. She was relying on short term lending to sustain her.

Miss D has had the benefit of the money so I think it is only fair that she pays it back but I agree with the adjudicator that all interest and/or charges applied to loans five to twenty six should be refunded and all adverse information recorded on Miss D's credit file about these loans should be removed.

my final decision

My final decision is that I uphold this complaint. In full and final settlement of it Lending Stream LLC should do the following:

- refund any interest and/or charges applied to loans five to twenty six together with 8% simple interest per year from the time that the interest and charges were paid to the time Miss D gets it back.
- remove any adverse information recorded about the refunded loans from Miss D's credit file.

*HM Revenue & Customs requires Lending Stream LLC to take off tax from this interest. Lending Stream LLC must give Miss D 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 Miss D to accept or reject my decision before 17 August 2017.

Emma Boothroyd
ombudsman