

complaint

Mr C complains that Lending Stream LLC made short-term lending to him when it shouldn't have.

background

Lending Stream made seven short-term loans to Mr C. He later complained that they hadn't been affordable for him.

Our investigator recommended that the complaint should be upheld in part. He thought that – before the second and later loans - Lending Stream should've done more checks on affordability. He recommended that Lending Stream should:

1. refund all interest and charges that Mr C paid on loans 2 to 7;
2. pay interest of 8% simple a year on the refund from the date of payment to the date of settlement;
3. if there are any outstanding balances, apply the refund to reduce any capital outstanding and pay any balance to Mr C:
4. remove any negative information about the loans from Mr C's credit file.

Lending Stream disagrees with the adjudicator's opinion. It says, in summary, that – based on what Mr C said - monthly repayments towards all the loans would've been affordable.

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 Mr C, Lending Stream had to check each time he applied for a loan that he could afford to make the repayments. The checks it did had to be proportionate. There no set list of proportionate checks. What's proportionate depends on things like – but not limited to – the size of the loan repayments and the information Lending Stream had about Mr C.

From its records and his bank statements, Lending Stream made loans to Mr C as follows:

loan number	loan date	loan amount
1	14 March 2016	£300
2	26 April 2016	£500
3	02 July 2016	£530
4	26 August 2016	£320
5	24 September 2016	£ 60
6	25 October 2016	£600
7	31 December 2016	£500

Each of the loans was repayable by monthly instalments over about six months.

Before each of the loans, Lending Stream recorded Mr C's monthly income as about £2,600 and his monthly expenditure as about £1,100. I find it more likely than not that these figures came from Mr C. They indicated that he had a disposable income of about £1,500.

That disposable income would've been enough to cover the monthly repayments on the first loan. And - in the context of a first loan - I'm satisfied that Lending Stream did proportionate checks by asking Mr C his monthly income and expenditure.

When Mr C applied for the second loan, the first Lending Stream loan was still running. Together, the monthly repayments on the first and second loans were going to be up to about £340. And Mr C was making a financial commitment for most of the rest of the year.

When he applied for the third loan, the first and second Lending Stream loans were still running. The monthly repayments were up to about £510.

When he applied for the fourth loan, the first, second and third loans were still running. The monthly repayments were "tailing off" but were still up to about £490.

So I think that – before the second, third and fourth loans – proportionate checks would've included not only asking Mr C about his income and expenditure but also asking him about his other short term commitments.

When Mr C applied for the fifth loan, it was smaller than the earlier ones. And the first loan had come to an end.

But the second, third and fourth loans were still running. And there was a pattern of short-term borrowing.

So I think that – at that stage – proportionate checks would've included more than asking Mr C about his income, normal expenditure and other short-term commitments. I think proportionate checks would've included getting a full picture of Mr C's financial circumstances, for example by asking him for copies of documents such as payslips, bills and bank statements.

After the fifth loan, the same level of checks would've been proportionate for Lending Stream's sixth and seventh loans.

Lending Stream says it asked Mr C about his outgoings including on other loans. But I haven't seen enough evidence that it asked him specifically about other short-term financial commitments. So I'm not satisfied that it did proportionate checks before the second and later loans.

From the bank statements I've seen, Mr C had become reliant on borrowing from short-term lenders to fund his gambling. He couldn't afford repayments on Lending Stream's second or later loans in a sustainable way – that is without further short-term borrowing.

So I don't think Lending Stream would've made the second or later loans if it had done proportionate checks.

Therefore I find it fair and reasonable to make orders in relation to those loans.

I will order Lending Stream to refund each amount of interest and charges Mr C paid, with interest at our usual rate.

As I think there's a capital balance outstanding, I will allow Lending Stream to apply its refund first to settle that balance before it pays the remaining refund to Mr C.

As I don't think it should've made the loans, I will order Lending Stream to remove from Mr C's credit file any adverse information about them.

my final decision

For the reasons I've explained, my final decision is that I uphold this complaint in part. I order Lending Stream LLC (in relation to the loans it made from April to December 2016) to:

1. refund Mr C (or credit his account) for each amount of interest and charges he paid;
2. add simple interest at a yearly rate of 8% on each such amount from the date Mr C paid it to the date Lending Stream refunds it. HM Revenue & Customs requires Lending Stream to take off tax from this interest. It must give Mr C a certificate showing how much tax it's taken off if he asks for one;
3. remove any adverse information from Mr C's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 6 July 2017.

Christopher Gilbert
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