

complaint

Mr B complains that Gain Credit LLC (trading as Lending Stream) lent him money he couldn't afford to repay.

background

Mr B took out seven instalment loans between October 2015 and August 2017. He says Lending Stream shouldn't have agreed to lend as he was carrying a large amount of debt and was repeatedly borrowing from a number of lenders. Mr B wants Lending Stream to refund the interest that he's paid.

The adjudicator recommended that Mr B's complaint be upheld in part. She thought Lending Stream's checks went far enough before agreeing loans one to three and six to seven. But she didn't think the lender carried out proportionate affordability checks for loans four and five.

The adjudicator thought Lending Stream should've asked Mr B about his other short term loans before agreeing loan four. And by loan five, she thought Lending Stream should've carried out a full review of Mr B's financial circumstances.

The adjudicator thought that if Lending Stream had done better checks, it would've realised that loans four and five weren't affordable. She asked it to refund interest and charges and pay interest on the refund. She also recommended that Lending Stream remove any negative information about the two loans from Mr B's credit file.

Lending Stream doesn't agree with the adjudicator's recommendation. It says Mr B had enough disposable income to afford all of the loan repayments. It said he passed its own credit assessment process. And having multiple loans at the same time doesn't mean the lending is irresponsible if the customer's income is higher than their outgoings.

Lending Stream said it turned down some of Mr B's requests for a loan indicating that it considered each application carefully.

Mr B isn't happy with the adjudicator's recommendation. He says that most of the interest that he paid was on the last two loans. He topped up the original loan and says he told Lending Stream that he couldn't afford the repayments. Mr B says he had a number of defaults on his credit file by the time he took out loan seven.

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'm upholding his complaint in part.

Lending Stream was required to lend responsibly. It needed to make checks to see whether Mr B could afford to pay each loan back before it lent to him. There wasn't a set list of checks it had to carry out. But the checks had to be proportionate to things such as the amount borrowed, the length of the agreement and any borrowing history.

I appreciate Lending Stream says it doesn't consider bank statements as part of its affordability assessment but this is just one of the ways a lender could carry out a more

thorough financial assessment before agreeing to lend. And although Lending Stream was entitled to treat any information Mr B gave as being accurate, that doesn't mean it shouldn't have looked out for signs that something was wrong or that relevant details had been left out.

As Lending Stream hasn't given us any of the credit search results, I can't say whether it was aware of any information that should've led it to ask more questions than it did. However, just because it considered Mr B's credit rating to be good, doesn't necessarily mean that he was able to afford the loans that it agreed.

Loans one to three

Mr B told Lending Stream that his monthly income was about £3,172 and his outgoings were between £668 and £793.

As this was early on in Mr B's lending history, I think it was reasonable of Lending Stream to rely on the information he gave. Based on this, it appeared Mr B could afford the repayments so I don't think Lending Stream was wrong to agree to lend.

loan four

By the time Mr B applied for loan four he'd been borrowing fairly large amounts on a regular basis. Loan four was for £950 – almost a third of his declared income. Although it was repayable by instalments, I agree with the adjudicator that Mr B's history of borrowing should've prompted Lending Stream to ask about his other short term lending commitments.

As I don't have any evidence that it did this, I need to consider what better checks would've shown. Mr B was due to pay other short term lenders a total of £5,000. These commitments exceeded his net monthly income.

I think that if Lending Stream had asked for more information at this point, it would've realised that loan four wasn't affordable.

loan five

Mr B took out loan five a few weeks after repaying loan four. Although it was for less than loan four, he still asked to borrow £500.

I think Lending Stream should've reasonably been alerted to a possible dependency on short term lending. And the pattern of borrowing, particularly in light of the relatively high level of declared income, should've made Lending Stream question whether it knew enough about Mr B's true financial position to decide whether to lend to him.

I think it was proportionate to expect Lending Stream to carry out the fullest checks possible and independently verify Mr B's outgoings.

As we've been given bank statements for the period, I've used these when considering what more proportionate checks would've revealed.

Although it doesn't look as though Mr B had other outstanding short term loans at this point, he was gambling regularly. I can see more than £2,800 of online gambling transactions on

his bank statements in the month leading up to taking out loan five. This meant that with his living costs and regular credit commitments, Mr B had a negative disposable income.

Overall, if Lending Stream had carried out the proportionate checks I think were reasonable, it would've realised that Mr B was borrowing from multiple lenders to support his gambling habit. He couldn't afford to repay loans four and five without borrowing elsewhere. This wasn't sustainable and Mr B has lost out as a result. Lending Stream should pay him compensation.

loans six and seven

There was a gap of about nine months between repaying loan five and taking out loan six. In the absence of any other evidence to the contrary, I think it was reasonable of Lending Stream to conclude that Mr B's circumstances might've improved.

Mr B told Lending Stream his monthly income was £3,425. He declared monthly outgoings of between £200 and £250. Again, based on the information he gave it looked as though Mr B could afford to repay the loans in a sustainable way.

Although the adjudicator said Lending Stream would've been aware that Mr B had under declared his regular financial commitments, I can't be sure this was the case as I don't know what its credit checks revealed at the time. However, like the adjudicator told Mr B, even if Lending Stream had taken account of his other regular financial commitments, it would've still appeared that Mr B had enough disposable income to afford the repayments on loans six and seven.

I appreciate that Mr B says Lending Stream should've known that he was struggling because his credit report showed other debt payments and defaults. But Lending Stream's credit checks aren't likely to reveal the same level of information that Mr B can see on his own reports.

I have also had a look at the credit report that Mr B sent to us. Although I can see evidence of some arrears on a few accounts in 2017, these didn't really start until around July/August 2017. So Lending Stream couldn't have taken account of any arrears before agreeing loan six in June 2017.

Even if Lending Stream's searches had revealed more detailed information about Mr B's other credit accounts, it can take a number of weeks for the information to update. So it's likely that Lending Stream wouldn't have known about the arrears before agreeing the final loan in mid-August 2017. And although Mr B says he had some defaults on his credit file, I can't see these.

Finally, even though Mr B had been borrowing from other short term lenders in the months leading up to taking out loans six and seven – his credit report shows that for the most part, his payments were up to date or the loans were settled.

Overall, I can't reasonably find that Lending Stream should've been prompted to ask for more information than it did. This means I can't reasonably require it to do anything in relation to loans six and seven.

putting things right

To put things right Lending Stream should:

- Refund any interest and charges Mr B has paid on loans four and five;
- Add simple interest at a rate of 8% per annum to each of these amounts from the date they were paid to the date of settlement*; and
- Remove any negative information about loans four and five from Mr B's credit file, including any records of searches it's done since he complained.

*HM Revenue & Customs requires Lending Stream to take off tax from this interest. Lending Stream must give Mr B a certificate showing how much tax it's taken off if he asks for one.

my final decision

My decision is that I uphold this complaint in part. 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 Mr B to accept or reject my decision before 13 April 2018.

Gemma Bowen
ombudsman