

complaint

Mr J complains that Lending Stream LLC's ("LSL") affordability checks were inadequate and because of this it failed to realise that he was in financial difficulties when it lent him two loans.

background

Mr J took out two loans with LSL. He borrowed £120 on 6 February 2015 and £400 on 1 May 2015. Both of Mr J's loans had to be paid back in six monthly instalments. He paid back his first loan within six weeks, but he still has an outstanding balance of £786.20 for his second loan. At the time he took out his loans, Mr J had three defaulted accounts with an outstanding balance, paid his credit card accounts late and had sought help from a debt management agency to repay four debts. But LSL said that its checks showed that Mr J's monthly income ranged from £1,100 to £1,200 which exceeded his monthly outgoings, and that he had a disposable income of more than £700 a month. Mr J was also unhappy that he was being contacted by LSL and debt collectors about his debt.

our adjudicator's view

The adjudicator concluded from Mr J's credit report that he couldn't afford to repay his debt and it was unreasonable for LSL to add to his indebtedness. So, he recommended that LSL should refund all interest and charges applied to Mr J's loan agreements along with interest, and ensure no adverse information is reported on Mr J's credit file relating to the loans.

The adjudicator also didn't think that LSL had acted inappropriately in contacting Mr J about his debt and noted that the debt was being recalled from external debt collectors. He also noted that LSL had explained that it would work with Mr J to set up an affordable repayment plan to pay his outstanding balance, which he thought was fair.

LSL disagreed and responded to say that it didn't lend irresponsibly. It had made its decisions based on the information supplied by Mr J and received through other sources. It had noted from the credit report that Mr J had six loans with an outstanding balance of £1,900-2,000 before the first loan, but this had reduced to £1,701-1,800 before the second loan. It noted that its first loan had been paid off early, and Mr J didn't tell it that he was suffering financial difficulties or that he had entered into a debt management plan. It had assessed Mr J's self-attested income and expenditure details, and the good payment history for the first loan was taken into account into assessing affordability for the second loan.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mr J and to LSL on 31 March 2016. I summarise my findings:

As the evidence was incomplete, inconclusive, or contradictory, I reached my decision on the balance of probabilities – in other words, what I considered was most likely to have happened in light of the available evidence and the wider circumstances.

I noted that LSL had said that it had carried out a credit search and Mr J's score was over 700 and acceptable. LSL had also said that it had considered the income and expenditure details provided by Mr J which suggested that he could afford the repayments. Mr J had provided it with income details of around £1,200. LSL had said that Mr J had shown monthly

expenditure as between £437 and £462, so his disposable income was around £730. LSL also said that Mr J had told it he was in full time employment. He also hadn't mentioned that he had a debt management plan, or that he was in financial difficulties. I noted that LSL's loan agreement had said that Mr J entered into it on the understanding that the information he had provided was true and accurate.

I had also seen Mr J's credit report. Before he entered into the two loans with LSL the report showed three defaulted loans, but for each loan, it also showed that Mr J's repayments were reducing the defaulted loan amounts.

I had asked the adjudicator to obtain a copy of Mr J's bank statements for the two months before he took out both his loans as I thought that these would assist in clarifying whether the loans were affordable. I could see that Mr J's net monthly income was £883. But as he was living with family before each of the loans, I could see that he paid around £85 to £150 rent per month for this. Before the first loan, he was also paying £206 to a debt management plan and around £200 for essential spending such as food, phone charges and optician costs and £35 to his girlfriend (described as a bill payment on the statement). But this left nearly £300 disposable income in each of the two months before the first loan for non-essential expenditure. As I could see that the first loan's monthly repayments varied between £24 and £55.68, I didn't think that the first loan was unaffordable based on the information shown in Mr J's bank statements. And as Mr J paid this off early, I thought that this also showed that it wasn't unaffordable.

In the two months before the second loan, I could see that in March 2015, Mr J had spent £80 in rent, £230 on essential spending, £110 to his girlfriend (described as a bill payment) £80 on his debt management plan and £157.44 on his loan repayment to LSL. In April 2015, Mr J had spent £85 on rent, around £250 on essential spending plus £100 paid to his girlfriend (described as a bill payment), with no debt repayments. In each of these months he appeared to have respectively around £200 and £400 per month to spend on non-essential expenditure. As the loan's monthly repayments for six months varied between £98.56 and £176, I didn't think that this was unaffordable based on the information shown in Mr J's bank statements at the time the loan was taken out.

I could also see that Mr J had some irregular expenditure around this time. Mr J told us that he had moved home and that there was some plane travel to find a job. He also had some expenses paid for by a family member such as renting a van for moving. I could also see he was receiving loans from his girlfriend, but he appeared to have repaid similar amounts to her.

Mr J had also shown us evidence of his debt repayment plan from 2013 for which he had agreed to pay £120 per month. He felt that LSL shouldn't have lent to him as he had this plan. I could see that Mr J's bank statements had showed changes to this amount, but they also showed that he had enough disposable income after making this payment to pay for LSL's loan repayments.

I could also see from the bank statements that Mr J's last salary payment was in April 2015. I didn't know if he knew at the time of the second loan application that his job was ending, but I think that if he had known, it would have been reasonable for him to declare on the application form that he had no income going forward.

So, as the loan was made on the basis of his stated income and expenditure, I didn't think that LSL had acted inappropriately in providing the second loan to Mr J.

I also noted that the loan agreement had also said that Mr J must inform LSL immediately of any change in employment details. I couldn't see that he had done this until August 2015. But it appeared that one of the main reasons for Mr J's financial difficulties was because his full time job had ended, which LSL was unaware of at the time of the second loan application.

I understood that it was unsettling for Mr J to receive debt collection letters and texts. But I agreed with the adjudicator that LSL hadn't acted unfairly or unreasonably in contacting Mr J about his debt.

I appreciated that Mr J felt strongly that LSL shouldn't have provided him with the loans. But, on balance, and having reviewed the evidence, I didn't think that LSL had acted irresponsibly in providing Mr J with the two loans. And, I could see that it did carry out affordability checks, and it had relied on the income and outgoings information Mr J provided to it before each loan was made, which showed enough disposable income for him to be able to make the loan repayments. I also thought that Mr J's bank statements showed he had enough disposable income to make the repayments. LSL had also assessed Mr J's repayment history with it when granting the second loan.

So, I didn't think, on balance, that LSL had acted inappropriately in assessing that the loans were affordable, and I didn't think that in these circumstances that it would be fair to ask LSL to refund the interest and charges applied to Mr J's loans.

I also said that if Mr J was still suffering financial difficulties, I would urge him to contact LSL to discuss this. I reminded LSL of its duty to treat cases of financial difficulty positively and sympathetically.

Subject to any further representations by Mr J or LSL, my provisional decision was that I didn't intend to uphold this complaint.

LSL didn't have any further information to add in response to my provisional decision.

Mr J disagreed and responded to say that other complaints he had made to this service had been upheld and he had provided the same information for these. He also said that he had a debt management plan at the time of the loans. At the time of the second loan he was moving away from home to care for a sick relative and so was unemployed with no income. He was then being supported by his partner and a family member.

my findings

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

I note that Mr J said that he has had other complaints with this service upheld. But it's important to remember that every case we deal with is unique and treated on its own merits. So it wouldn't be helpful to view decisions made in Mr J's other cases as any sort of precedent. I'm concentrating here on the particular circumstances of this complaint.

I also note that Mr J has referred to his debt management plan. But, I can see that he didn't tell LSL about the plan. Mr J had told LSL that he had a disposable income of more than £700 a month. If LSL had seen Mr J's credit search, they would have seen that his loan debt

balances were decreasing. And if LSL had seen Mr J's bank statements before the loans were made, these would also have shown that Mr J had enough disposable income after the debt repayments were made to pay for LSL's loan repayments.

I also note that Mr J's employment ceased when he went to care for a sick relative. But, it's unfortunate that Mr J didn't tell LSL before the second loan was made that his employment had ended. LSL's decision to lend to Mr J was based on its understanding that he was still in full time employment. And if it had seen Mr J's bank statements before the loan was made, these would also have shown him in receipt of an income before the second loan application.

So, for the reasons set out above I don't think, on balance, that LSL has acted inappropriately in assessing that the loans were affordable. So, I am satisfied that the proposed resolution in my provisional decision is fair in all the circumstances, and I find no basis to depart from my earlier conclusions.

If Mr J is still suffering financial difficulties, I would urge him to contact LSL to discuss this. I also remind LSL of its duty to treat cases of financial difficulty positively and sympathetically.

my final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 20 June 2016.

Roslyn Rawson
ombudsman