

complaint

Mr S complains that Lending Stream LLC lent him money he couldn't afford to repay.

background

Mr S took out two instalment loans with Lending Stream in December 2013. He doesn't think it took enough notice of his credit score, defaults and short term lending history. Mr S says another short term lender agreed that it shouldn't have lent to him and cancelled the outstanding balance on his account.

The adjudicator didn't recommend that the complaint be upheld. He thought Lending Stream's checks went far enough before agreeing both loans. And that based on the information Mr S declared about his income and expenditure, both loans appeared affordable.

Mr S disagreed with the adjudicator's recommendation. He thinks Lending Stream should've asked to see bank statements before deciding whether to lend to him. If it had done this, he thought it would've realised he was gambling frequently and using multiple short term loans.

my provisional findings

After considering all the available evidence and arguments to decide what was fair and reasonable in the circumstances of this complaint. I wasn't minded to uphold this complaint. But as I'd reached my provisional decision for different reasons to the adjudicator, I thought it was fair to give Mr S and Lending Stream the chance to reply.

Lending Stream was required to lend responsibly. It needed to make checks to see whether Mr S 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.

Mr S was due to repay the first loan by two instalments of just under £210 and the second loan by instalments of under £350. Lending Stream recorded a monthly expenditure of £500 before the first loan and £250 for the second loan. His declared monthly income for both loans was £1,700.

The adjudicator thought Lending Stream's checks went far enough and that the loans appeared affordable. I could appreciate why Mr S wasn't happy with this as he had a number of defaults on his credit file and other outstanding short term loans. He thought this should've led Lending Stream to take a look at his bank statements. And that if it had, it would've seen he was a habitual gambler who couldn't afford the loans.

I thought about this and agreed with some of what Mr S said. Lending Stream could see eight defaults on his credit file. The outstanding defaulted balance was around £5,000. And Mr S also had between six and seven other active loans.

Although Lending Stream said Mr S's credit score was good, I thought the results should've prompted it to ask him some specific questions about his other short term lending commitments. However, I didn't consider Lending Stream should've gone as far as independently verifying this information by asking to see payslips, bills or bank statements. This meant it wouldn't have found out about Mr S's online gambling transactions or any other expenses that he didn't declare.

Just because I considered Lending Stream should've asked more questions didn't necessarily mean that I would go on to uphold the complaint. I needed to conclude that better checks would've shown Lending Stream that the loans weren't affordable.

Although it might've seemed unfair, I thought the loans would've still appeared affordable to Mr S even if it had asked about his short term lending commitments. For example around the time of the first loan, Mr S had other short term lending commitments of just under £600. But if I added this to his declared expenditure of £500, it would've appeared to Lending Stream that he had over £610 of disposable income – enough to repay loan one.

I realised that Mr S's true financial situation was much worse due to the amount he was spending on gambling transactions, but for the reasons outlined above, I wouldn't have expected proportionate checks to have revealed this.

Finally, although a different short term lender upheld Mr S's complaint, it didn't follow that I must do the same. I needed to consider the individual circumstances of each complaint.

further submissions

Lending Stream hasn't asked me to take account of any additional evidence but Mr S has raised some points that he wants me to consider.

Mr S says he's suffering from stress and has had to give up work. He doesn't think Lending Stream should've agreed his first loan as he had outgoing loans of more than £2,000. This meant he had to apply for an even bigger loan at the end of December.

Mr S says again that a different ombudsman found in his favour in a complaint involving very similar circumstances.

Mr S wants me to take account of all the payments he's made to Lending Stream. He thinks the charges and interest are extortionate so the balance should be written off.

Finally, Mr S points out that he was being pursued by a number of creditors and debt collection companies at the time. This put further pressure on him, causing him to gamble in an effort to keep up with his payments.

my findings

I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I should first of all say that I'm very sorry to hear about Mr S's situation and the stress that he continues to suffer with.

I've given careful thought to all the points Mr S made in reply but I'm afraid this doesn't change my decision. Although he owed money to a number of lenders, I would've reasonably expected Mr S to include any regular credit commitments as part of the expenditure that he declared to Lending Stream. This means that I've only added Mr S's short term lending commitments to his declared outgoings.

Mr S thinks his credit commitments were higher than I've reflected in my provisional decision. But on considering his bank statements, I can see that most of the short term lending commitments that he mentions were settled shortly before he took out loan one with Lending Stream on 2 December 2013.

Mr S repaid two other short term lenders just under £600 in the month he was due to pay his first instalment to Lending Stream. Taken with his declared outgoings of £500 and income of £1,700, it would've still appeared that Mr S had enough disposable income to afford loan one.

On the same day that Mr S took out loan two, he borrowed about £430 from two other short term lenders. I can only see evidence that he repaid one of these lenders later in December 2013. But even if I add the two loans to his declared expenditure of £250, it would've still appeared to Lending Stream that Mr S had more than enough disposable income to be able to afford the repayments of around £300 on loan two.

As I don't find Lending Stream was wrong to lend to Mr S, based on what proportionate checks would've shown it follows that I can't reasonably require it to write off any outstanding balance on loan two.

The other complaint that Mr S mentioned relates to an earlier period of time so his financial situation may have been quite different. As I need to consider each individual complaint on its own merits, I don't feel I need to say anything further about this.

As I wouldn't have expected Lending Stream to independently verify the information that Mr S gave, it wouldn't reasonably have known about his gambling habit. So although I am sympathetic to what Mr S says about being driven to gamble as a result of taking on more loans, I don't have any evidence to suggest Lending Stream should've been aware of this at the time.

Lending Stream has sold the outstanding balance on loan two to a third party debt collection company. If Mr S hasn't already done so, I urge him to make contact to try and agree some kind of repayment plan.

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 S to accept or reject my decision before 16 March 2018.

Gemma Bowen
ombudsman