

**complaint**

Mr M complains that Gain Credit LLC (trading as Lending Stream) was irresponsible to lend him money as the repayments were unaffordable to him.

**background**

Mr M had four instalments loans from Lending Stream between March 2014 and April 2014 as follows:

Loan	Ref	Date	Amount	Term	Payment*	Due	Status
1	1941315	19 Mar 2014	£110	6m	£59.40	29 Aug 2014	No payment since May 2014
2	1981149	23 Apr 2014	£100	6m	£98.44	31 Oct 2014	
3	1983545	25 Apr 2014	£80	6m	£141.64	31 Oct 2014	
4	1986861	28 Apr 2014	£50	6m	£168.64	31 Oct 2014	

\* The payment column is the maximum scheduled repayment due in any one month for all overlapping loans.

Lending Stream says it carried out affordability checks at the time of each loan application. It says it checked Mr M's credit file and his credit score was acceptable. It also confirmed that it had found the repayments to be affordable based on the information it had about Mr M's disposable income. It clarified that the loans had since been passed to debt collection agencies – loan 1 to a different agency from loans 2, 3 and 4.

Our adjudicator recommended the complaint should be upheld in part. He wasn't satisfied that Lending Stream did enough checks before approving the fourth loan. He found that had it done so, it's likely to have found loan 4 unaffordable due to the other outstanding short-term loans Mr M had. He recommended the interest and charges should be refunded on loan 4 (plus 8% statutory interest) and any associated negative information should be removed from Mr M's credit file.

Lending Stream agreed to the adjudicator's recommendation and contacted the third party debt collection agency to ask them to cease collections activity on loans 2, 3 and 4 whilst this complaint is ongoing.

Mr M responded to say, in summary, that he wanted the complaint reviewed. He was also concerned about the charge for applying for a County Court Judgement (CCJ) on the loans which he didn't believe he owed.

Lending Stream also agreed to refund the portion of the legal charge that applied to loan 4 - £31.86.

**my findings**

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

Lending Stream was required to lend responsibly. It should have made checks to make sure Mr M could afford to repay the loans before it lent to him. Those checks needed to be proportionate to things such as the amount Mr M was borrowing, and his lending history. But there was no set list of checks Lending Stream had to do.

Lending Stream asked Mr M about his income and expenditure and checked his credit file. For the first three loans, I'm satisfied the checks went far enough: Mr M's self-declared disposable income was between £739 and £910 and the maximum scheduled monthly repayment he needed to make

on all three loans was less than £150. Therefore, I can't conclude Lending Stream was wrong to approve the first three loans.

By the time Mr M applied for loan 4, I consider Lending Stream's checks should have gone further. I say that because it was his fourth loan in quick succession, he hadn't repaid the previous loans, and loans 2, 3 and 4 were taken out just days apart. I think, as a minimum, Lending Stream should have asked Mr M about any other outstanding short-term loans.

Had Lending Stream done that, it would have found that Mr M had borrowed over £700 from four other short-term loan providers in the three weeks before his April Lending Stream loans. Given Mr M's disposable income was around £700, I'm satisfied Lending Stream would have found loan 4 was unaffordable if it had carried out proportionate checks.

So, in summary, I don't think Lending Stream was right to approve loan 4 and it has now offered to refund interest and charges on this loan. I acknowledge loan 4 is currently with a debt collection agency and legal costs have since been applied to loans 2, 3 and 4. Lending Stream has also offered to refund one-third of these costs, as a reflection of the proportion applicable to loan 4. I find that fair and reasonable. I say that because I find it more likely than not that Mr M would have incurred legal costs for loans 2 and 3, even in the event that loan 4 wasn't approved.

### **my final decision**

My decision is that I uphold this complaint in part. Gain Credit LLC (trading as Lending Stream) should do the following, as it has offered to do:

- Refund all interest and charges that Mr M paid on loan 4;
- Pay interest of 8% simple a year on all refunds from payment date to settlement date\*;
- Write off any unpaid interest and charges for loan 4, apply the refund to reduce any capital outstanding and pay any balance to Mr M;
- Arrange to repay any portion of the sum due to the third party that is made up of interest and charges – including £31.86 towards the legal costs added by the third party;
- Pay Mr M interest and charges he has already paid to the third party plus 8% interest simple per annum on each amount from the date of payment to the settlement date;
- Remove any negative information about loan 4 from Mr M's credit file;
- Tell the third party to remove adverse information it may have recorded about loan 4.

\*HM Revenue & Customs requires Lending Stream to take off tax from this interest. Lending Stream must give Mr M a certificate showing how much tax it's taken off if he asks for one. If Lending Stream intends to apply the refund to reduce any outstanding capital balance, it must do so after deducting the tax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 28 July 2018.

Amanda Williams  
**ombudsman**