

## complaint

Miss D complains that Gain Credit LLC (trading as Lending Stream) gave her loans that she couldn't afford.

## background

Miss D took a total of 28 loans with Lending Stream between Apr 2015 and Aug 2017.

Loan	Date	Loan amount	Total amount repaid	Date repaid in full
1	8 Apr 2015	£400	£521.60	15 May 2015
2	13 June 2015	£300	£549.12	2 Nov 2015
3	20 Jul 2015	£60	£100.47	2 Nov 2015
4	23 Aug 2015	£50	£78.56	2 Nov 2015
5	2 Nov 2015	£600	£1,151.04	26 Apr 2016
6	12 Dec 2015	£50	£52.80	18 Dec 2015
7	17 Dec 2015	£70	£124.62	31 Mar 2016
8	5 Mar 2016	£300	£558.72	28 Jul 2016
9	12 Mar 2016	£80	£92.80	31 Mar 2016
10	31 Mar 2016	£390	£694.28	23 Jul 2016
11	2 May 2016	£180	£296.57	28 Jul 2016
12	28 May 2016	£200	£368.53	1 Oct 2016
13	8 Jul 2016	£200	£294.72	9 Sept 2016
14	9 Sept 2016	£620	£863.84	2 Nov 2016
15	9 Dec 2016	£150	£164.40	20 Dec 2016
16	17 Dec 2016	£100	£109.20	4 Jan 2017
17	28 Dec 2016	£300	£516.37	19 May 2017
18	4 Jan 2017	£250	£448.00	26 May 2017
19	8 Jan 2017	£170	£287.65	9 May 2017
20	12 Feb 2017	£80	£101.20	24 Mar 2017
21	6 Mar 2017	£350	£644.00	27 Jul 2017
22	28 Apr 2017	£410	£707.66	28 Aug 2017
23	1 June 2017	£200	£208.00	still outstanding
24	17 June 2017	£120	£146.04	27 Jul 2017
25	2 Jul 2017	£180	£115.20	still outstanding
26	27 Jul 2017	£130	£30.16	still outstanding
27	30 Jul 2017	£90	£18.72	still outstanding
28	28 Aug 2017	£240	£0.00	still outstanding

Miss D says the loans trapped her into a debt spiral, with the repayments taking up so much of her income that she had to borrow again to cover the next month's expenses. She believes that Lending Stream shouldn't have given her the loans, as they were unaffordable for her.

Our adjudicator recommended that the complaint should be upheld in part. In summary, she thought that Lending Stream had carried out enough checks before making the first four loans. But from loan five onwards, she thought it should have got a more detailed picture of Miss D's financial circumstances before lending. And if it had done so, she thought it would have realised that Miss D couldn't afford to repay the loans in a sustainable manner.

So the adjudicator recommended that Lending Stream refund all interest and charges that Miss D paid on all loans from loan 5 onwards, with interest on the refund. And she said that it should waive any unpaid interest and charges on the loans which remain outstanding and remove any negative information about loans 5-28 from Miss D's credit file.

Lending Stream disagreed with the adjudicator's view. But it offered to close Miss D's outstanding loans, and waive the total outstanding balance of £791.40. Miss D wasn't happy with Lending Stream's offer, so the complaint's been passed to me.

## **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 needed to make checks to see whether Miss D could afford to pay back each loan before it lent to her. Those checks needed to be proportionate to things such as the amount Miss D was borrowing, the length of the agreements and her borrowing history. But there was no set list of checks Lending Stream had to do.

The Financial Conduct Authority was the regulator throughout the time that Miss D was borrowing from Lending Stream. Its regulations for lenders are set out in its consumer credit sourcebook (usually referred to as "CONC"). These require lenders to take "*reasonable steps to assess the customer's ability to meet repayments under a regulated credit agreement in a sustainable manner without the customer incurring financial difficulties or experiencing significant adverse consequences.*" They define 'sustainable' as being able to make repayments without undue difficulty. And they explain that this means borrowers should be able to make their repayments on time and out of their income and savings without having to borrow to do so.

So the fact that the amounts borrowed and the repayments might have been low in comparison with Miss D's income, or that she managed to repay the loans in full and on time, doesn't necessarily mean they were affordable for her, or that she was managing to repay them in a *sustainable manner*. In other words I can't assume that because Miss D managed to repay most of the loans that she was able to do so out of her normal means without having to borrow further.

Before agreeing to lend, Lending Stream asked Miss D for details of her regular monthly income and expenditure. And it carried out a credit check each time.

When she applied for the first loan, Miss D told Lending Stream that her monthly income was £1,800, and her regular monthly expenditure was £1,019. On the basis of those figures, she had around £780 per month left over after meeting her regular expenses. Lending Stream was entitled to rely on the figures Miss D provided, in the absence of anything to suggest that they might be unreliable.

This was Miss D's first loan from Lending Stream. It was repayable by six monthly instalments. The highest of those was £172.80. Based on the information Lending Stream had, I'm satisfied that it would have looked as if Miss D would be able to afford the monthly repayments relatively comfortably. And I don't think it was irresponsible to make the loan without carrying out more detailed checks.

Loan 2 was, again, repayable by six monthly instalments, the highest of which was £134.40. Miss D's declared monthly income remained at £1,800. The figure she gave for her monthly expenditure was slightly lower, at £978. So it would have looked as if she'd have more than £800 after meeting her regular monthly expenses. Once again, taking into account the information it had, I think Lending Stream would reasonably have thought that Miss D could afford the loan relatively easily. So I don't think there was anything which ought to have prompted it to carry out further checks before agreeing to lend.

My view is the same for loans three and four. The repayments on those didn't increase Miss D's total monthly repayments substantially. And even taking into account the repayments due on Miss D's existing loans with Lending Stream, I think it was reasonable of it to conclude that the loans were affordable for Miss D, based on the information she'd provided, without the need to carry out more detailed affordability checks.

Miss D applied for loan 5 on the day that she repaid loans 2 to 4. By that time, I think a pattern of repeated borrowing was emerging. And that, coupled with the fact that the loan was for half as much again as Miss D's highest previous loan, should have alerted Lending Stream to the possibility that Miss D was dependent on short-term loans, and might not have been borrowing sustainably. So from loan 5 onwards, I think that as a responsible lender, Lending Stream should have been independently verifying the true state of Miss D's finances.

If Lending Stream had verified the information Miss D provided, it would have seen that Miss D's regular income, including benefits and tax credits, was higher than the £1,800 she'd referred to in her application for the loan. But her regular monthly living costs were also more. What's more, it would have seen that she was borrowing from other short-term lenders at the same time. Taking into account her regular financial commitments and other short-term loans that she already had outstanding, Miss D had no remaining disposable income out of which she could make repayments on further borrowing. So I think that proportionate checks would have shown Lending Stream that Miss D couldn't afford loan 5.

I can see from Miss D's bank statements that while the amounts she was borrowing from other short-term lenders fluctuated, her overall financial situation didn't improve significantly throughout the rest of the time that she was borrowing from Lending Stream. And she was carrying out frequent gambling transactions, which were, over depleting her available resources further.

It's true that Miss D didn't tell Lending Stream about her other short-term lending, or about her gambling. But by the time she applied for loan 5, I think these were things that Lending Stream should have been finding out for itself. I don't think it was reasonable to simply rely on the information Miss D provided in her loan applications from that point onwards.

If Lending Stream had carried out what I consider to be proportionate checks, I think it would have seen that Miss D wasn't in a position to repay loan 5 onwards sustainably. So I don't think it should have made those loans.

### **putting things right**

To put things right, Lending Stream should:

- refund all interest and charges Miss D paid on loans 5 to 28;
- pay interest on those refunds at 8% simple\* per year from the dates of payment to the date of settlement;
- apply the refund to reduce the capital outstanding and pay any balance to Miss D;
- write off any interest and charges that haven't yet been paid; and
- remove any negative information about the loans referred to in the first bullet point above from Miss D's credit file.

\*HM Revenue & Customs requires Lending Stream to take off tax from this interest. Lending Stream must give Miss D a certificate showing how much tax it's taken off if she 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 Miss D to accept or reject my decision before 10 May 2018.

Juliet Collins  
**ombudsman**