

complaint

Mr Z complains Lending Stream LLC lent him money he couldn't afford.

background

Mr Z took out four instalment loans in the space of a few weeks as follows:

date taken	amount	instalments	highest monthly payment	Date repaid
28 May 2013	£165	5	£90.75	7 August 2013
5 June 2013	£165	5	£90.75	7 June 2013
8 June 2013	£350	6	£175.00	7 August 2013
11 June 2013	£85		£53.84	7 August 2013

Mr Z told us he was borrowing more money from multiple pay day lenders to pay his bills and other pay day loans. Mr Z thinks Lending Stream's lending was irresponsible. He asked the lender to refund all charges and interest and remove information about the loans from his credit file. Lending Stream didn't agree so Mr Z came to us.

Our adjudicator didn't recommend that Mr Z's complaint be upheld. He noted that Lending Stream asked about Mr Z's disposable income. And it carried out credit checks. Given each instalment payment represented a relatively small chunk of Mr Z's disposable income; he considered Lending Stream's checks went far enough.

Mr Z was unhappy with our adjudicator's recommendation. He could understand why we might consider the first loan was affordable. But Mr Z thought Lending Stream should've looked more closely at whether he could afford the other loans as he took them all within the same pay day period.

my provisional findings

After considering all the evidence, I issued a provisional decision on this complaint on 9 May 2017. I summarise my findings:

- Lending Stream was required to lend responsibly. It needed to check whether Mr Z could afford to pay each loan back before it agreed the lending. There wasn't a set list of checks that 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.
- Lending Stream gave us evidence showing that each time it lent to Mr Z it asked for details of his monthly salary and disposable income. It also carried out credit checks.
- I agreed with the adjudicator that the checks for the first and second loan were proportionate. The highest monthly repayment on the first loan was just under £91. When Mr Z took out the second loan, the highest combined instalment would've been just over £180. Mr Z told Lending Stream he had a disposable monthly income of between £1,100 for the first loan and £800 for the second. Based on this information, I didn't think Lending Stream was wrong to lend to Mr Z.

- By the third loan, Mr Z had doubled the amount of borrowing. His combined loan repayments were higher because the first loan remained open. By this loan, I thought it would've been reasonable to expect Lending Stream to ask more questions.
- Lending Stream should've asked Mr Z about things like his living costs including his regular financial commitments and short term borrowing from this loan onwards. If it had, I didn't think Lending Stream would've agreed to lend to Mr Z from this point onwards.
- I used Mr Z's stated available income of £800 as a starting point – in June 2013, he paid about £850 to other pay day lenders. This meant he couldn't afford to repay Lending Stream.
- Although Mr Z's fourth loan was for much less than the third, he took it out quickly after the third and his combined repayments had increased. I considered it would've been reasonable to have expected Lending Stream to ask to see Mr Z's bank statements. If Lending Stream had looked at these, it should've had serious concerns about his ability to repay the fourth loan. Mr Z was overdrawn by more than £2,600. He was gambling quite regularly and using payday loans from a number of lenders to keep up with his financial commitments.
- I said Lending Stream should refund any interest and charges on the third and fourth loans and remove any adverse information about them from Mr Z's credit file.

further submissions

Both Mr Z and Lending Stream accepted my provisional decision.

my findings

I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I can't see any reason to depart from the conclusions that I reached in my provisional decision.

my final decision

I uphold this complaint in part. In full and final settlement, Lending Stream LLC should do the following:

- Refund any interest and charges that Mr Z paid on the third and fourth loans deducting any capital previously waived in relation to these loans
- 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*
- Remove from Mr Z's credit file, any adverse information about the third and fourth loans and any records of searches it's done in relation to any of the loans since Mr Z complained

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Z to accept or reject my decision before 5 July 2017.

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

Gemma Bowen
ombudsman