

complaint

Mr M complains about the service he received from Gain Credit LLC (trading as Lending Stream) after he told it he was in financial difficulties.

background

Mr M had one loan from Lending Stream on 1 May 2017 for £250. It was due to be repaid in six instalments, the largest of which was £106. Mr M says if Lending Stream had made proper checks it would have seen numerous defaults on his credit file. He adds that he was also receiving treatment for depression at the time he took out the loan.

Mr M says he emailed Lending Stream in June 2017 to tell it he was in financial difficulties and was in contact with a debt management company. He says he heard nothing until a legal company contacted him to tell him he'd received a County Court Judgement (CCJ). Mr M says that when he complained Lending Stream said it had sold the debt on and dismissed his complaint. Mr M adds that he has now seen the letters Lending Stream says it sent and has noticed an error in the address. But he adds that he hasn't received a satisfactory response from either Lending Stream, or the debt collection agency and he wants an apology, compensation for the stress and the CCJ removed.

Lending Stream says it asked Mr M about his income and expenditure and verified his income with third party sources. It says the repayments were affordable and Mr M's credit check was satisfactory.

Our adjudicator recommended the complaint should be upheld in part. He did not consider it was unfair for Lending Stream to have approved the loan, but did find it could have done more to communicate with Mr M after he said he was experiencing financial difficulties. Our adjudicator did not find enough evidence to say that the CCJ should not have been applied but he wasn't satisfied Lending Stream acted positively and sympathetically to Mr M's financial difficulties. He recommended Lending Stream should pay Mr M £100 for the trouble and upset caused, and rework the debt to remove any interest and charges that were applied since Mr M told it he was in financial difficulty.

Lending Stream responded to say, in summary that it agreed with the adjudicator's assessment and, if the third party debt collector refused to adjust the balance, it would buy the debt back and adjust the balance accordingly.

Mr M said he would accept the offer, only if the CCJ was removed.

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 will first consider whether Lending Stream was irresponsible to approve the loan. Lending Stream was required to lend responsibly. It should have made checks to make sure Mr M could afford to repay the loan 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.

When Mr M applied for the loan, Lending Stream asked him about his income and expenditure and checked his credit file. As Mr M said his disposable income was £400, and the largest scheduled repayment was just over £100, I can understand why Lending Stream considered the loan was affordable. But Lending Stream's credit check showed Mr M had had a default recorded within the last three months. So I'd have expected it to increase its checks to include specific questions about other short-term loans. Based on the evidence I've seen, such checks are likely to have shown Mr M had one other outstanding short-term loan at the time, but I'm satisfied the Lending Stream loan would still have appeared affordable.

So I can't conclude Lending Stream was wrong to approve the loan.

I will now consider what happened after the loan was approved.

Timeline

I can see that Mr M notified Lending Stream that he was in financial difficulties on 5 July 2017. Although Lending Stream acknowledged his email, I can't see it responded to Mr M beyond that. However, it did notify him of a late payment charge the following day.

Following a further missed payment, Lending Stream sent Mr M an arrears notice on 3 August 2017, and then a default notice on 8 September 2017. I acknowledge Mr M says he didn't receive the letters, but I'm satisfied they were correctly addressed. The termination notice was then sent on 27 September 2017.

As far as I can see from the evidence provided, no further correspondence was sent until April 2018 when Lending Stream sold the debt to a third party debt collection agency (DCA) and sent a notice of assignment via email. The DCA says this was followed up with a text message to inform Mr M the email had been sent.

The DCA adds that it attempted to contact Mr M 14 times between April 2018 and June 2018 before then posting the notice of assignment to his address on 29 June 2018. Following five further contact attempts, the DCA says it posted a letter of claim giving 30 days notice of legal action. It also says it attempted to call Mr M on three different numbers but each call was disconnected. A further email was sent to Mr M on 21 August 2018 before the DCA emailed him on 4 September 2018 to tell him it had instructed a legal company.

On 17 October 2018 the DCA says a county court claim was issued and a claim pack would have been posted to Mr M shortly afterwards. As no response was received, the legal company told Mr M a County Court Judgement (CCJ) had been issued on 8 November 2018 and that he had 30 days in which to pay the outstanding debt in order to have the CCJ removed.

On 10 November 2018, Mr M complained to Lending Stream that the loan wasn't affordable to him. Then, at the end of December 2018, he told the DCA that he hadn't received any paperwork or emails about the CCJ and the contact numbers it had were incorrect.

Lending Stream responded to Mr M in January 2019 and explained that its checks showed the loan was affordable and the debt was now with a DCA. It followed that up with copies of the relevant paperwork it says it sent to Mr M.

Mr M maintained that the paperwork was never received due to discrepancies with his address and that, due to his mental health, he hadn't dealt with Lending Stream as a priority debt. He says his poor mental health should have been taken into account, but contacted the legal company on 29 January 2019 to accept its offer of a settlement at 50% if the CCJ was removed. The legal services company said it had been trying to contact Mr M for some time and that its offer stood until 31 January 2019.

Mr M then referred his complaint to this service.

Based on the evidence I've seen, I'm satisfied that Lending Stream did not respond to Mr M's email about his financial difficulties. As it is obliged to respond positively and sympathetically to a consumer's financial difficulties, I consider it's fair and reasonable for any charges that were added after that date to be removed and for Mr M to be paid £100 for the additional distress caused by the lack of a response.

However, with regard to Lending Stream's actions before it sold the account to the DCA, I can't conclude it did anything wrong. I say that because:

- I've seen copies of all the relevant paperwork and I'm satisfied it was correctly addressed;
- Lending Stream gave Mr M sufficient notice of the transfer and both it and the DCA contacted Mr M when the debt had been sold.

I sympathise with Mr M when he says he was suffering from poor mental health and his Lending Stream debt was not a priority, but I can't conclude Lending Stream was wrong to transfer the debt to a third party when Mr M did not respond to any of the correspondence.

I acknowledge that Mr M is happy to accept the settlement proposed above, on the proviso that the CCJ is also removed from his credit file. As I haven't found Lending Stream to have acted incorrectly when it transferred the debt to a third party, I can't conclude the CCJ should be removed as this complaint is about the actions of Lending Stream.

my final decision

My decision is that I uphold this complaint. Gain Credit LLC (trading as Lending Stream) should:

- Rework the debt to remove all interest and charges that were applied after Mr M notified it of his financial difficulties on 5 July 2017;
- Pay Mr M £100 for the trouble and upset caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 2 April 2020.

Amanda Williams
ombudsman