

## complaint

Mr G complains about the loans he took out with Gain Credit LLC trading as Lending Stream. He says that after the fourth or fifth loans they became unaffordable. But Lending Stream continued to lend to him. He says the repetition and frequency of his borrowing was evidence that he needed help. And so Lending Stream shouldn't have lent to him after the first few loans.

## background

Mr G took out 25 loans with Lending Stream between November 2015 and July 2017. Some of the information Lending Stream has given us shows that these are:

loan number	loan amount	received date	actual repayment date
1	£300.00	05/11/2015	26/01/2016
2	£500.00	19/12/2015	14/03/2016
3	£250.00	15/01/2016	22/02/2016
4	£600.00	14/03/2016	30/06/2016
5	£200.00	22/03/2016	30/06/2016
6	£200.00	17/04/2016	30/06/2016
7	£120.00	11/05/2016	02/09/2016
8	£160.00	06/06/2016	05/09/2016
9	£200.00	05/07/2016	05/09/2016
10	£250.00	08/07/2016	05/09/2016
11	£140.00	10/07/2016	05/09/2016
12	£200.00	12/07/2016	05/09/2016
13	£100.00	10/09/2016	28/02/2017
14	£100.00	11/09/2016	28/02/2017
15	£100.00	16/09/2016	28/02/2017
16	£100.00	21/09/2016	24/03/2017
17	£200.00	25/09/2016	24/03/2017
18	£300.00	11/01/2017	25/04/2017
19	£450.00	16/03/2017	11/06/2017
20	£150.00	07/04/2017	Not Closed
21	£230.00	12/04/2017	Not Closed
22	£120.00	15/04/2017	Not Closed
23	£400.00	01/05/2017	11/06/2017
24	£800.00	29/06/2017	Not Closed
25	£300.00	31/07/2017	Not Closed

Lending Stream looked at Mr G's initial complaint and thought that that it should be partially upheld. It said that it had conducted proportionate checks for the loans and the lending was mostly affordable.

But it recognised that some of the lending may have caused Mr G difficulty. So it offered to refund the interest and charges on loans 20 to 22, 24 and 25. And it was willing to close loans 20 to 22 without any further payments, and accept the remaining principle balance on loans 24 and 25. It offered to set up a repayment plan for Mr G if he needed one.

Mr G didn't agree and brought his complaint to us. Our adjudicator thought that Mr G's complaint should be partially upheld. He thought that Lending Stream had made proportionate checks for loans 1 to 3. So he thought that its decisions to lend were reasonable.

He didn't think that Lending Stream had made proportionate checks for loans 4 to 25. He thought if had made better checks it would've been apparent to Lending Stream that loans 4 and 6 were affordable for Mr G. So it was reasonable for Lending Stream to have given Mr G these loans.

But he thought that Lending Stream wouldn't have agreed to lend Mr G money for loan 5 and for loans 7 to 25. This is because he didn't think that Mr G could sustainably afford the repayments for these loans.

Lending Stream didn't agree with our adjudicator. It said that:

- Its checks showed that Mr G had enough disposable income to afford the loans.
- It looked at Mr G's credit file for each loan and used the results to calculate if the loans were affordable for him.
- Mr G should've declared all of his income and expenditure and it relied on the information he provided. Mr G is responsible if the information he provided is not correct.
- It wouldn't ask for bank statements as they may contain sensitive information the consumer wouldn't want to disclose.
- Mr G did have multiple loans but this does not mean that it lent irresponsibly.

However Lending Stream again recognised that some of the lending may have caused Mr G difficulty. It offered to refund the interest and charges on loans 10 to 12, 16 and 17. And it was still willing to close loans 20 to 22 without further payment, and accept the remaining principle balance only on loans 24 and 25. It offered to set up a repayment plan for Mr G if needed.

Mr G didn't accept this offer and he requested an ombudsman's final decision. As no agreement has been reached 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. Having done so, I've decided to partially uphold Mr G's complaint. I'll explain why.

Lending Stream was required to lend responsibly. To do this it needed to make checks to see whether Mr G could afford to pay back each loan before it lent to him. There's no set list of what a lender should do to check affordability. But the checks should be proportionate to things like the size of the loan, the size of the repayments, what the lender knows about the consumer and what the consumer tells the lender about their circumstances.

So I've firstly looked at whether Lending Stream performed proportionate checks. If I think that the checks were proportionate then it usually would've been reasonable for it to lend. But if Lending Stream didn't do proportionate checks, I've looked at whether it would've been apparent to it that the loan repayments were affordable had it done better checks. Lending Stream should put things right if it's likely to have then found that the loan repayments were unaffordable.

Lending Stream says that all of the checks it made were proportionate. In addition to the credit checks it recorded Mr G's monthly income each time it lent. Its records show this was £2,400 before loans 1 to 11 and £2,438 for the remainder of the lending, except for loan 23 when this was recorded as £2,466. Lending Stream also recorded Mr G's monthly expenditure. It recorded a different amount before each loan so I won't list them all here. But as a broad average its records show this as being between £1,100 and £1,250.

So, again in broad terms, Lending Stream's records show that Mr G had a disposable income of between £1,100 and £1,250 each time it lent to him.

Lending Stream has said that it wasn't irresponsible to lend more than one loan at a time to Mr G. I don't disagree with this in principal but where Mr G has had more than one loan I've thought whether the combined repayments would've been affordable for him.

### **loans 1, 2 and 3**

Mr G borrowed £300 for loan 1 and £500 for loan 2. Both of these were due to be repaid over six months. The highest scheduled monthly repayment was around £135 for loan 1 and £225 for loan 2. Mr G started loan 2 when he still had loan 1. So his highest contractual monthly repayment for both loans was over £280 in one month.

Lending Stream collected information about Mr G's income and outgoings. And given that these were the first two loans Mr G took, and the amount due to be repaid compared to what he declared as his monthly income, I think the checks it did before providing these loans were sufficient.

Mr G continued to take instalment loans from Lending Stream without a break. He borrowed £250 for loan 3. And I can see that he hadn't fully repaid loans 1 and 2 when he took this loan 3. So the highest combined contractual repayment he was due to make was now over £350.

The sums Mr G needed to repay were increasing and this was his third loan in just over two months. I think that there was a risk at that time that Mr G may be becoming dependent on short term lending rather than just using the loans to help with a temporary cash flow problem. But the repayments were still relatively small compared to Mr G's declared income. So - on balance and given the sums involved - I think it was proportionate to check Mr G's income and outgoings to ensure he had sufficient disposable income to make the repayments which is what Lending Stream did.

Lending Stream says it did credit checks but I haven't seen anything which suggests Lending Stream was made aware of any financial problems Mr G might've been having at this time. Or anything that would've prompted it to investigate Mr G's circumstances further. So it seems the checks it did for loan 3 were proportionate.

Given the information Lending Stream had, I think its decisions to lend for loans 1, 2 and 3 were reasonable.

So I'm not upholding Mr G's complaint about loans 1, 2 and 3.

#### **loan 4**

Mr G continued to take instalment loans from Lending stream without a break. And he borrowed £600 for loan 4, which was the largest amount yet. Mr G had repaid his earlier loans before taking loan 4. The highest scheduled repayment was just over £250.

Given that Mr G was continuing to borrow, and for increasing amounts, I think Lending Stream should've found out what his disposable income was. But it also would've been proportionate to have asked Mr G whether he had any other outstanding short term lending at the time this loan was approved. As I said earlier, it identified Mr G's income and regular expenditure and it looked at his credit file. But I can't see that it asked about any other short term lending.

Lending Stream recorded Mr G's disposable income as being just over £1,300. And I can see from his bank statement that he had a short term loan with another provider that had an outstanding repayment of just over £450. But taking account of his income and outgoings at that time, I think that had Lending Stream carried out proportionate checks it would've reasonably concluded that the repayments for loan 4 were affordable for Mr G.

So I'm not upholding Mr G's complaint about loan 4.

#### **loans 5 to 25**

Mr G continued to borrow and by the time he took loan 5 he been taking short term loans from Lending Stream for over 6 months. And at times he'd had up to 3 loans running at the same time. So Lending Stream should've now become concerned about whether it knew enough about Mr G's true financial situation.

So for loan 5 onwards Lending Stream should've carried out a full review of Mr G's finances to check if any further short term lending was affordable and he could sustainably repay it. There are many ways it could've done this, such as by asking for payslips and/or bank statements, to verify the information Mr G was providing. Lending Stream didn't do this.

So I've looked at the information provided about Mr G's financial circumstances to see if these loans were affordable. These include his bank statements and a recent credit report and I've also looked at the information Lending Stream recorded about Mr G and what Mr G has told us.

In order to check what outstanding short term credit commitments Mr G may have had and to review his finances I've used his bank statements. I think it's reasonable to do this as they give the most accurate picture of Mr G's finances at the time these loans were given. I appreciate Lending Stream says that it may not have obtained these and I'm not suggesting it should have. But this does mean that it's unlikely to have got an accurate picture of Mr G's financial situation from loan 5 onwards.

Lending Stream has said some of this information provided through the bank statements is different to what Mr G declared when applying for his loan. I accept that it's possible that some of the information Mr G provided may not have been entirely accurate. But even if I were to find this was the case, Lending Stream still has a responsibility to make proportionate checks. And the broader circumstances were such that it should've been doing more to confirm that he could afford to repay the credit in a sustainable way. It didn't do this, so I need to decide what it's likely to have found out had it made these checks.

Our adjudicator didn't uphold Mr G's complaint about loan 6. And looking at his income and expenditure just before this loan, I can see that his disposable income is much higher than at other times. He still has just under £900 left after all of his other expenses. So I think that had Lending Stream carried out proportionate checks it would've reasonably concluded that the highest combined repayment over the life of loan 6, at just over £400, was affordable for Mr G. And Mr G didn't disagree with this.

So I'm not upholding Mr G's complaint about this loan, but I think Mr G's complaint about loan 5 and loans 7 to 25 should be upheld. I'll explain why below. To be clear, and to avoid repetition, when I talk about Mr G's income and expenditure over the time of these loans it doesn't include loan 6 which I've looked at separately above.

Throughout this period Mr G's income is around £2,350 per month. He sometimes receives some smaller payments from his employer so I think an average of £2,400 is reasonable to use.

Mr G's expenditure is higher than that recorded by Lending Stream. Before loan 5 he pays rent of £400 and spends about £500 on food and travel. His other normal expenditure, on things such as insurance and mobile phones takes his normal monthly outgoings to around £1,050 per month. Mr G also makes regular repayments to other financial providers such as credit cards of around £250 per month. He incurs bank charges of around £50 per month and he has a regular loan payment of around £300. So his regular expenditure seems to be around £1,600 to £1,650 per month.

Having looked at his bank statements this seems to apply over the remainder of the lending. There is some variation in amounts, and how they are composed, but not very much. So I think it's reasonable to say that Mr G has a disposable income of around £750 to £800 before any of the expenditure I talk about below.

Mr G was using other short term lenders. Up to loan 12 he had a regular outstanding commitment of just under £500. I can see this reduces between loans 12 and 18. But after this he has at least £200, sometimes more, outstanding for the remainder of the time he borrowed from Lending Stream. This is with the same lender as before.

And I can see what appear to be gambling transactions on Mr G's account after loan 7. The amounts Mr G spent are moderate at first. But by loan 13 he is spending a significant amount in this way – often close to £1000. Mr G would also have some winnings but these are not guaranteed and were sporadic and so shouldn't be relied on.

And Mr G was taking larger loans or starting multiple loans for smaller amounts from Lending Stream. For example I can see that loans 7, 8, 9, 10, 11 and 12 were all running at the same time. He took 3 loans of just under £600 in July 2016 and took a loan of £800 in June 2017.

This meant the payments Mr G was making to Lending Stream increased. Using the information Lending Stream has supplied I can see that in April 2016 and May 2016 Mr G repaid between £400 and £500. But in June 2016 this increased to over £600 for a large proportion of the remaining time he borrowed. And he repaid over £800 to Lending Stream in October 2017.

So Mr G's regular expenditure and what he was spending on other short term loans and gambling left him with no, or very little, disposable income from which to repay his Lending Stream loans. So I think if Lending Stream had carried out the appropriate checks it would've seen that Mr G couldn't afford to sustainably repay them.

And having looked at Mr G's bank statements I can also see that he was very overdrawn for much of this lending. As Lending Stream knows Mr G has been unable to meet the repayments he was due to make on some of his loans. He had problems making the repayments to loans 20, 21, 22, 24 and 25.

So I think, added to the affordability of the loans, there are clear signs Mr G was experiencing financial difficulty here. Again I think if Lending Stream had carried out proportionate checks, or looked into this further, it would've seen all of this.

Lending Stream also says that it declined some of Mr G's loan applications. It hasn't provided further detail about which ones, and why. But declining a loan application wouldn't necessarily mean that it had conducted proportionate checks later when it did lend to him. And, I've already explained, had Lending Stream carried out proportionate checks it wouldn't have given Mr G the majority of his loans.

Overall I think Mr G couldn't afford the repayments to loans 5 and 7 to 25 due to a combination of his regular expenditure, financial commitments, other short term commitments and expenditure on gambling. And I don't think it was responsible of Lending Stream to continue to lend to him in these circumstances. So I'm upholding his complaint about these loans.

### **putting things right**

Lending Stream shouldn't have provided to Mr G loan 5, and loans 7 to 25. So it should:

- refund any interest and charges applied to those 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 any adverse information recorded on Mr G's credit file in relation to those loans.

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

If Mr G still owes Lending Stream any of the principal balance he borrowed on loans 20 to 22, 24 and 25, Lending Stream may deduct this from the compensation that is due to him. To be clear, that outstanding balance should be recalculated to remove any interest and charges, but taking account of any repayments Mr G has made on that loan as though they were applied against the principal sum borrowed.

**my final decision**

For the reasons I've explained, I uphold Mr G's complaint.

Gain Credit LLC should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr G to accept or reject my decision before 18 June 2018.

Andy Burlinson  
**ombudsman**