

## complaint

Mr H complains that Gain Credit LLC, trading as Lending Stream, gave him loans he couldn't afford to repay.

## background

Mr H took out the following instalment loans with Lending Stream:

	date	£ amount borrowed	date repaid
1	1 December 2011	135	2 February 2012
2	30 December 2011	265	8 February 2012
3	11 February 2012	485	
4	14 June 2012	195	
5	28 June 2012	95	

Lending Stream says that it sold loans three, four and five to third parties.

Our adjudicator thought that Lending Stream carried out proportionate checks before loans one and two but not before loans three, four and five. She said proportionate checks would have shown that Mr H couldn't afford to repay loans three, four and five. The adjudicator said:

- The repayments for loans one and two were small in relation to Mr H's stated income.
- Before loans three and four, Lending Stream should have asked Mr H not only about his income and expenditure but also about any other short-term loans.
- Before loan five, Lending Stream should have verified the information Mr H provided about his finances.
- At the time of loans three and four, Mr H had substantial short-term debt such that further borrowing was unaffordable.
- Proportionate checks before loan five would have shown that Mr H had multiple short-term loans and spent a large proportion of his income on gambling.

Lending Stream offered to close loan three without any further payment and accept the remaining capital balance of loans four and five. It said it would need to repurchase the loans from the third parties. Mr H accepted that but Lending Stream didn't respond further, so the complaint was 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.

Before agreeing to lend to Mr H, Lending Stream had to check each time that he could afford to make the repayments. The checks it did had to be proportionate. What's proportionate depends on things like the size of the loan repayments and the information Lending Stream had about Mr H. There's no set list of the checks a lender should carry out.

Before agreeing to each loan, Lending Stream carried out credit and identity checks and asked Mr H about his monthly income, which it recorded as £1,550. It also asked him about his expenditure, which it recorded as varying between £550 and £1,000.

I think the checks Lending Stream did were proportionate for loans one and two. That's because that was the beginning of its lending relationship with Mr H. Based on the information Lending Stream had about Mr H, it appeared that he could afford to repay those loans.

Loan three was Mr H's third loan with Lending Stream in as many months and was for substantially more than he had borrowed before. So I think that proportionate checks here would have included not only asking Mr H about his income and expenditure but also about any other short-term loans.

When Mr H asked to borrow loan four, he hadn't yet repaid loan three. Given the pattern of borrowing that was emerging, I think proportionate checks before loan four would have also included asking about any other short-term loans.

By loan five Mr H's reliance on short-term borrowing was established and he hadn't repaid loans three or four. In those circumstances, proportionate checks are likely to have established a much fuller picture of his financial position. I think proportionate checks here would've meant that Lending Stream took steps to verify the information Mr H provided about his financial situation.

As Lending Stream doesn't appear to have carried out proportionate checks before loans three, four and five, I can't say for sure what it would've found out had it done so. Mr H has provided us with some evidence of his financial circumstances at the time he applied for the loans. So I've been able to get a picture of what his financial circumstances were like. Of course, I accept that this isn't perfect, as different checks show different things. And just because something shows up in the information Mr H has now provided, it doesn't mean that it would've shown up in any checks that Lending Stream might've carried out. But the information Mr H has provided is the best indication I have of what his financial circumstances were at the relevant time. In the absence of anything else, I think it's reasonable to rely on it.

I've said that before loans three and four, Lending Stream should have also asked Mr H about other short-term loans. Based on what I've seen, if it had done that, it would have discovered that Mr H already had substantial amounts of outstanding borrowing from other short-term lenders. In the month before loan three, Mr H had borrowed almost £2,000 from other short-term lenders that he hadn't yet repaid. In the month before loan four he'd borrowed over £1,000. Mr H couldn't afford to repay loans three and four and I think proportionate checks would have revealed that.

I've said that before loan five, Lending Stream should have verified what Mr H said about his financial position. If it had done that, it would have discovered the extent of Mr H's existing debt and that he was spending substantial amounts on gambling. I think proportionate checks would have shown that Mr H couldn't afford to repay loan five.

Considering everything, I don't think Lending Stream has shown its checks for loans three, four and five were sufficient or proportionate. If it had carried out proportionate checks, I think it would've seen that loans three, four and five were unaffordable. On balance, I don't think it should have given Mr H those loans.

Lending Stream hasn't updated us about its plan to repurchase the debts from the third parties. Overall, I think the adjudicator's proposed resolution of this complaint is fair and reasonable. I agree with the adjudicator's conclusions and don't see any compelling reason to change the proposed outcome in this case.

### **my final decision**

I uphold this complaint. To put things right, I require Gain Credit LLC, trading as Lending Stream to:

- Refund any interest and charges paid by Mr H on loans three, four and five.
- 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 H's credit file in relation to loans three, four and five.

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

Mr H didn't fully repay these loans and the outstanding debts have now been sold to third party debt collection companies. I don't know whether Mr H has repaid any of those debts to the debt collection companies.

It seems reasonable that if Mr H still owes some of the capital he borrowed, part of the refund due to him should be used to repay that debt. But to do so, Gain Credit must first take the debts back into its own books and reduce them to reflect just the capital that Mr H borrowed. Once it has recovered the capital Mr H borrowed, any remaining compensation should be paid directly to Mr H. If Gain Credit is unable, or unwilling, to repurchase the debts within four weeks of Mr H accepting my decision it must ensure that all its interest and charges added to these loans, and any other interest and charges added by the debt collection companies, are refunded to Mr H so he can choose whether to use the compensation to settle his debts directly.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 17 June 2018.

Louise Povey  
**ombudsman**