

complaint

Mr P says that Lending Stream LLC agreed to lend him money between 2012 and 2016 which he couldn't afford to pay back.

background

Lending Stream lent to Mr P between July 2012 and October 2016. I've set out a simplified table here. I've rounded figures for ease and so this table is not to be used for any redress calculations.

Loan agreement scheduled repayment dates	reported income	reported expenditure	disposable income	loan capital (agreed repayment sum) rounded	highest scheduled repayment
Loan 1 (agreed 5 July 2012) 31 July to 31 Dec 2012	£2,000.00	£1,100.00	£900.00	£505 (£1,111)	£252.50
Loan 2 (agreed 1 Dec 2012) 24 Dec 2012 to 29 May 2013	£2,000.00	£900.00	£1,100.00	£415 (£913)	£207.50
Loan 3 (agreed 30 May 2013) June 2013 to Nov 2013	£2,000.00	£1,500.00	£500.00	£615 (£1353)	£307.50
Loan 4 (agreed 27 Feb 2014) 26 March to 27 Aug 2014	£2,000.00	£1,200.00	£800.00	£800 (£1888)	£432.00
Loan 5 (agreed 9 April 2014) 30 April to 24 Sept 2014	£2,000.00	£1,250.00	£650.00	£250 (£590)	£135.00
Loan 6 (agreed 18 April 2015) 28 May to 29 Oct 2015	£1,960.00	£869.00	£1,091.00	£800 (£1600)	£339.20
Loan 7 (agreed 24 Sept 2016) 26 Oct 2016 to 29 March 17	£1,987.00	£611.00	£1,376.00	£500 (£1000)	£240.00

Mr P applied for these loans and gave Lending Stream information on his income and expenditure, details of his employment and pay-dates. Loans 1 and 3 attracted late payment fees. Loans 2, 4, 5, 6 and 7 were paid off more quickly as Mr P overpaid so he would've paid less than the agreed repayment sum.

Mr P complained to Lending Stream in 2016 and outlined that all of these loans had never been affordable as his outgoings were £1,750 plus he'd other debts to repay costing £500 per month. These are different figures to those given to Lending Stream at the time he made his applications. The significance is that they are higher sums, which means that Mr P is saying that he'd little or no disposable income at the time he took these loans.

Our adjudicator thought that Lending Stream didn't do enough checks. It ought to refund interest and charges and pay 8% interest on those sums for each of Loans 1 to 6 inclusive and amend Mr P's credit file. Our adjudicator didn't uphold Loan 7.

Lending Stream didn't agree with our adjudicator entirely. It has offered to refund all the interest and charges and add 8% interest for Loans 3 to 6. So it doesn't think that there should be any sort of refund for Loans 1, 2 or 7. Mr P didn't agree with Lending Stream. Both parties have asked that this be passed to me to decide.

In December 2017 I issued my provisional decision. In that I didn't review in detail the complaints in relation to loans 3 to 6, as Lending Stream's offers are in line with what we'd expect to see for an uphold on complaints for these loans. I said that I was planning to uphold loans 2 to 6 and I asked for both parties to come back to me within a month if they wished to add anything.

Mr P has agreed with my provisional decision. Lending Stream challenged aspects of it and has repeated its earlier offer for Loans 3 to 6. As Lending Stream seems to agree with my plan not to uphold Loans 1 and 7, then the only loan about which there remains a dispute is Loan 2. So I'll look at that again in detail.

Lending Stream says that:

- Mr P's disposable income (as Mr P reported to Lending Stream) for Loan 2 was £1,100 which was three times the borrowed amount (£415 for Loan 2)
- Lending Stream refers to its minimum threshold set of figures used if information received from a customer seems too low.
- Mr P's credit score was up to 815
- Mr P didn't tell Lending Stream all the details of all his expenses and so has misrepresented his position. It says it relied on this.
- Lending Stream doesn't need to ask for an applicant's copy bank statements
- Lending Stream doesn't like to ask for bank statements due to data protection issues
- The 'instant money' aspect of the Lending Stream business is what its customers like. So it doesn't want to ask for bank statements.

my findings

I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've taken into account the law, regulations and guidance applicable at the time. Good industry practice was set out in the Office of Fair Trading guidelines on irresponsible lending ("ILG") and later (from 2014) set out in a set of rules by the Financial Conduct Authority in the Consumer Credit Sourcebook ("CONC"), chapter 5.

I've looked at the information Lending Stream had – both information from Mr P and information it discovered through its own enquiries. Having done that, I've decided

whether that was proportionate and appropriate. My replies to Lending Stream's specific points are here.

The amount borrowed was £415. Lending Stream says that Mr P's disposable income was enough to cover it. Looking at the schedule of repayments, the highest was £207. He remained committed to Loan 1 at the time.

But what I said in my provisional decision for Loan 2 didn't focus on the mathematics of the sums. Mr P owed about £2,000 in STL loans with other lenders. £2,000 is the amount that Lending Stream had been told was Mr P's salary. So if Lending Stream had done what I considered it ought to have done at the time, it would have discovered this. Clearly Mr P wasn't in a position to repay this loan no-matter what the repayment figures were going to be. I say this because all his income was due to be used up on his existing STL commitments at the time he applied for this loan.

Lending Stream's reference to its application of minimum threshold figures in some circumstances is noted. But as I've no details from it, I can't really take this point further for this complaint.

Mr P's credit score of 815 was for the last loan in the chain, not Loan 2. I haven't seen the reports which give or create these scores and so I can't comment on how or why score increases may have come about. Lending Stream's own checks show that Mr P's 'balance on active loans' had increased by about £1,440. So this doesn't quite fit with the picture given by Mr P. By this I mean that his disposable income figure had increased because his expenditure figure had decreased and yet the loan balance had gone up. Nor does it fit with an increase in credit score to 737 for Loan 2. Either way these were some of the factors which ought to have prompted further enquiries as I explained in my provisional decision.

The ILG does give guidance which suggests that a lender ought not to rely solely on what the applicant has told it: ILG paragraph 4.15.

Lending Stream ought to have got more details and verified Mr P's financial position. That information could have been obtained by asking to view his bank statements for the relevant period. It's a convenient way, but it's not the *only* way. Lending Stream explains it's concerned about receiving bank statements and the gathering of data. That's an internal procedural and compliance matter for it.

The 'instant money' aspect of the Lending Stream business is a point I can see it thinks may be attractive to customers. But from Mr P's perspective, that same 'instant money' element is the very feature he is complaining to us about. I've given my opinion about Loan 2 in my provisional decision - which is that this money ought never to have been lent to Mr P - and I maintain that view.

Lending Stream didn't carry out checks proportionate to the sum applied for and if it had done what I think it ought to have done, it would have realised that Mr P wasn't able to repay this loan.

I think that Lending Stream should put things right in relation to Loan 2 and pay the recompense it's offered in relation to Loans 3 to 6. I don't uphold Mr P's complaint in relation to Loans 1 and 7 for the reasons I gave in my provisional decision.

putting things right

I do consider that Lending Stream LLC should:

1. refund all interest and charges paid by Mr P in respect of Loans 2 to 6 inclusive;
2. add simple interest at the rate of 8% per year on the above interest and charges from the date they were paid to the date of settlement.*
3. remove any negative information about these loans from Mr P's credit file.

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

my final decision

My final decision is I uphold Mr P's complaints in part and Lending Stream LLC is directed to put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 2 March 2018.

Rachael Williams
ombudsman

Extract from the provisional decision for Mr P.

Loans 1 and 2

These loans were in 2012 and so the ILG was applicable at the time.

A potential lender was expected to take '*reasonable steps to assess a borrower's likely ability to be able to meet repayments ... in a sustainable manner.*' ILG 4.2. This was to be a '*borrower focussed*' test. The assessment was to assess a borrower's ability to undertake the loan commitment. It was wider than simply assessing the likelihood of him/her being able to repay. ILG also recommends that the creditor looked at the borrower's ability to repay without undue difficulty, and without having to borrow further.

The ILG also expressed a view that these checks were to be proportionate to a number of factors including the borrower's current financial situation; his/her credit history (including indications of present or past financial difficulties) and future financial commitments.

ILG would only expect a lender to take account of future financial commitments of which it was aware and '*reasonable steps*' to obtain that information was what was expected.

ILG pointed out that it encouraged the borrower to carry out his or her own affordability checks at the same time.

Loan 1

I would've expected Lending Stream to find out about Mr P's normal monthly income, his normal monthly living costs and his regular financial commitments. I say this because it's a fairly high first loan of £505 with a six month repayment timetable and the total amount repayable was £1,111.

Lending Stream has explained to me that it uses the information Mr P would've given it in the on-line application form. This would've included a series of questions about Mr P's outgoings and other debts and other loans he may have had.

I asked Lending Stream to clarify exactly what Mr P said in answer to these questions. It's sent me a table showing the six specific questions Mr P would've been asked. These included asking Mr P about his 'credit payments' and 'other payments'. The specific information doesn't seem to have been recorded but Mr P has given an overall figure. Lending Stream recorded that his 'monthly expenditure' figure was £1,100.

Lending Stream has told me that it would've carried out a credit check for each application, and the credit reports were treated as having taken into account other lending: '*assumptive of including any other financial obligations.*' This would've been part of its automated process to approve the loans. No additional questions beyond those asked during the application process were likely to have been asked of Mr P.

The credit file assessment data Lending Stream has shown me that it was informed that Mr P had several delinquent loans, and that he had even more active loans with other lenders. It also knew the outstanding balance was about £3,500.

Lending Stream had '*taken reasonable steps*' to do what it should've done at this stage of the lender-borrower relationship and to act on information it was aware of at the time.

So I don't think that Lending Stream needed to do more at this stage.

Loan 2

Having come to the provisional decision I have in relation to Loan 1, for Loan 2 I do consider that additional questions ought to have been asked.

By this stage (December 2012) Mr P and Lending Stream had had a five month relationship. Mr P was applying for a loan on 1 December 2012 when he still had another loan payment outstanding for Loan 1. He'd incurred one late payment fee in November 2012. This second loan was for a smaller sum but would've extended his indebtedness for a further six months to May 2013.

The overall expenditure figure Mr P gave reduced by £200 to £900 which increased his disposable income figure.

Lending Stream's own checks show that Mr P's 'balance on active loans' had increased by about £1,440. So this doesn't quite match with Mr P's information that his disposable income figure had increased.

At the same time his credit score had increased. I know that Lending Stream adds weight to these scores. I haven't seen the reports which give or create these scores and so I can't comment on how or why that score increase may have come about.

In assessing whether the checks Lending Stream carried out for Loan 2 were 'sufficient' and proportionate I'd say not. I don't think it would've been disproportionate for Lending Stream to have asked further questions. I would've expected it to have asked for more about the current commitments he had and whether he'd any other short term loans to repay. I don't think it did that.

So I've considered what Lending Stream would've discovered, if it had asked for more details.

I've looked at Mr P's four bank accounts for around December 2012 to give me a reasonable picture of Mr P's financial position. I can see that in December 2012 Mr P had about £2,000 due to be repaid to several other lenders (including the first loan from Lending Stream). As Lending Stream had been told that his salary was £2,000 then I think that it would've seen that Mr P wasn't able to afford this loan.

I think that Lending Stream should put things right.

Loan 7

In September 2016 Mr P applied for a £500 loan which started in October 2016. He told Lending Stream that his disposable income was about £1,370.

It had been over twelve months since Mr P's last repayment to Lending Stream on the previous loan. So there had been a long gap between the loan applications. I consider

Lending Stream's reliance on Mr P's application details and its own credit checks was reasonable.

I say this because looking at the credit assessment data Lending Stream has shown me for Loan 7, his delinquent loan status had improved (from 4 to 1). And although the active loan outstanding balance was still large (about £6,400), his credit score was high at 815. I know that Lending Stream attach weight to those scores.

The checks made for this loan application seem to have been proportionate in the circumstances after a long gap since the last loan had been repaid. And I wouldn't have expected Lending Stream to do more.