

complaint

Mr R complains that Lending Stream LLC gave him loans that he couldn't afford to repay. He asks that it refunds interest and charges and removes information about the loans from his credit file.

background

Mr R took out 29 loans between November 2012 and May 2016. He says the loans weren't affordable and made his debt problems worse. Mr R says Lending Stream would have known he was struggling with his debts if it had done a credit check.

The adjudicator recommended that the complaint should be upheld, saying:

- The checks made by Lending Stream before the first five loans were proportionate, given Mr R's stated income and the amount of the monthly repayments. It asked about his income and expenditure before each loan.
- Lending Stream should have made more checks before the sixth loan, which was taken out before the previous loan was repaid. It should have asked about Mr R's short term commitments. Mr R told Lending Stream his monthly income was £1,230 and his expenditure was £650. But he also had short term commitments of more than £900. The loan wasn't affordable.
- Lending Stream should have made further checks before the seventh and later loans, many of which overlapped. This could suggest Mr R was reliant on short term loans. Lending Stream should have made a detailed review of Mr R's financial circumstances. Had it done so, it would have seen that Mr R's expenditure exceeded his income throughout the period he took out the loans. The loans weren't affordable.

The adjudicator said Lending Stream should refund interest and charges on the sixth and later loans, with interest at 8%, and remove adverse information about the loans from Mr R's credit file.

Lending Stream didn't agree. It said its credit checks showed Mr R had a good credit score and Mr R repaid his loans early or on time. It said the information provided by Mr R about his income and expenditure suggested the loans were affordable. Lending Stream said it was entitled to rely on the information provided by Mr R and didn't have to ask for bank statements. It offered to refund interest on 10 loans. Mr R rejected its offer.

my provisional findings

I didn't agree with all of the adjudicator's recommendations. So I sent a provisional decision to the parties to explain why. In it, I set out the following provisional findings:

Mr R took out the first loan, of £250, in November 2012. He told Lending Stream his monthly income was £1,230 and his expenditure was £675. The loan required monthly repayments and the largest was £132.50. I think, given the amount of the loan and repayments and Mr R's stated income, these checks were proportionate. I think these checks were proportionate for loans 2 to 4.

When Mr R asked for the fifth loan, in March 2014, I think Lending Stream should have asked for more information. He'd been taking out loans shortly after or before repaying the previous loan. There hadn't been a significant break in his borrowing for over a year. This could suggest a possible problem. I think Lending Stream should have asked for information to gain a full understanding of Mr R's financial circumstances. While it doesn't have to ask for bank statements, this is one way to gain information about a customer's circumstances. Lending Stream hasn't said it obtained this information using another method.

Mr R says household bills were paid from a joint account. The statements for this account show monthly payments of about £1,120 for living expenses (such as rent, utilities, council tax, insurance and TV licence). Mr R transferred about £550 to £600 into this account each month and I think this was his share of the joint expenses. The statements for Mr R's sole account show his monthly income of about £1,230. They also show a large number of transfers to gambling businesses (about £250 to £375 in February and March 2014). Mr R paid over £800 and £400 to short term lenders in February and March 2014, respectively. He also made payments to credit card accounts. Direct debits were returned unpaid and he incurred fees for an unauthorised overdraft.

I think Mr R's bank statements show signs of financial difficulties, as well as a possible gambling problem and reliance on short term loans. I think if Lending Stream had carried out proportionate checks it would have seen this and wouldn't have assessed the loan as affordable.

I think Lending Stream should have made similar checks before the sixth and later loans. After reading Mr R's bank statements, I don't think his financial situation improved. He continued to borrow from a number of short term lenders and transfer money to gambling businesses throughout the period he took out the loans from Lending Stream. I don't think the loans were affordable and Lending Stream would have known this if it had carried out proportionate checks.

I don't think Lending Stream should have agreed to lend to Mr R after, and including, the fifth loan (taken out in March 2014). So for each of those loans Lending Stream should:

- Refund all interest and charges that Mr R paid on the loans;*
- Pay interest of 8% simple a year on all refunds from the date of payment to the date of settlement*;*
- Remove any negative information about the loans from Mr R's credit file.*

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

Lending Stream said while it had lent repeatedly to Mr R it didn't agree its checks weren't sufficient. It said many customers use short term loans to manage their finances. Mr R repaid his loans early or on time and didn't say he had financial difficulties or ask for help. Lending Stream said the credit check results showed Mr R was in good standing. It said Mr R knowingly signed the loan agreements and the information he provided showed the loans were affordable. If he misrepresented his financial position to obtain the loans, he should be accountable for this. Lending Stream said it didn't need to check Mr R's bank statements as its analysis showed the loans were affordable.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

After considering the points made by Lending Stream, I'm not persuaded to change my findings from those set out in my provisional decision. I think Lending Stream made proportionate checks before the first four loans. But, for the reasons set out in my provisional decision, I think it should have been alerted to a possible problem and the need for further checks before offering the fifth and later loans. Had Lending Stream made proportionate checks it would have seen that Mr R had financial difficulties and couldn't afford the loans.

my final decision

My decision is that I uphold this complaint. I order Lending Stream LLC to:

- Refund all interest and charges that Mr R paid on the fifth and later loans;
- Pay interest of 8% simple a year on all refunds from the date of payment to the date of settlement*;
- Remove any negative information about the fifth and later loans from Mr R's credit file.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 10 November 2017.

Ruth Stevenson
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