

complaint

Mr M complains that Lending Stream LLC wrongly lent him money he couldn't afford to pay back.

background

Mr M took out six short term loans with Lending Stream between September 2011 and February 2013. He said that the business didn't carry out proper affordability checks and allowed him to continue borrowing when he was in financial difficulty. He says that this has led to a spiral of debt and he has had to take out more and more loans.

Lending Stream said that it did carry out checks and the loans were affordable on its criteria. It carried out a credit check and asked Mr M about his income and outgoings. It explained that it was reasonable to rely on what Mr M said and the loans were affordable.

Our adjudicator recommended that the complaint should be upheld in part. She thought that Lending Stream should have carried out more checks about why Mr M needed to keep borrowing so often. She thought that the fact that Mr M asked for his fourth loan whilst his third loan was still running indicated he might be in financial difficulty. She thought that Lending Stream should've done more checks at the point of the fourth loan and if it had it would've seen that loans four to six were unaffordable. She recommended that all interest and charges incurred on these loans should be refunded.

Lending Stream didn't agree and so the complaint has been passed to me to decide.

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 M, Lending Stream had to check each time that he could afford to repay the loan. There is no set list of checks that Lending Stream had to carry out. But the checks had to be proportionate to things like – but not limited to – the size of the loan, the repayments and what Lending Stream knew about Mr M.

Lending Stream says it asked Mr M about his income and outgoings did a credit check before agreeing to lend to him. I don't know what Lending Stream would've seen on Mr M's credit file but I accept it might not be the full credit information.

Looking at the first three loans there was nothing in Mr M's borrowing history that should've alerted Lending Stream to carry out more checks than it did. Mr M said that he was earning £1000 - £1100 and that his outgoings were between £230 and £300. I think the checks were proportionate to the size of the loans and the repayments and Mr M's self declared income and outgoings. There is nothing adverse in the credit report such as defaults or late payments and I agree with the adjudicator that it was reasonable to lend. Mr M asked for each of the first three loans after the previous one had closed.

Before the third loan was repaid Mr M asked for a further loan of £285. Asking for this loan before the previous loan was repaid was an indication that Mr M might be reliant on short term credit. I think that Lending Stream should have taken a closer look at Mr M's circumstances before agreeing to lend him this money. I can't see that Mr M was asked why he needed to borrow so often given his declared level of disposable monthly income.

I think that if Lending Stream had asked Mr M about his short term lending situation and taken a closer look at Mr M's finances it would've seen that he didn't have enough money to repay this loan when taking into account all of his other outgoings. I have reviewed Mr M's bank statements for this period and I agree with the adjudicator that the fourth loan was unaffordable given Mr M's other commitments. Lending Stream wouldn't have given him this loan if it had carried out these checks.

Mr M's position didn't improve during the rest of the time he was borrowing from Lending Stream. I agree with the adjudicator that if Lending Stream had done more checks for these later loans it wouldn't have given him these either. I have reviewed the income and expenditure information for these loans and I can see that these loans were unaffordable given Mr M's other short term lending commitments and his by now significant gambling transactions.

From the point of the fourth loan onwards Lending Stream should've been alerted to the possibility that Mr M was relying on short term lending to meet his credit commitments and every day expenses given his borrowing pattern.

Had Lending Stream asked these questions each time it would've seen that Mr M was borrowing from other payday lenders in the same month and his declared outgoings figure didn't take these repayments into account. Although on the face of it Mr M said he had enough money coming in to meet the repayments his pattern of borrowing from Lending Stream and other lenders suggested that he was overly reliant on short term credit and on occasions was unable to repay what he had borrowed in a sustainable way without borrowing again.

Although Mr M took out the loans and said he could afford them I don't think that this is enough for me to say Lending Stream acted responsibly. Mr M wanted and needed the loans because of the debt he was in. Lending Stream ought to have known this was the case at the time of the application for the fourth loan and done more thorough checking of his circumstances.

Even though on the face of it Mr M appeared to be meeting his repayments to Lending Stream and other lenders, I don't think this is enough to say that the loans were affordable. Mr M was meeting his repayments by borrowing more money from other payday lenders and borrowing repeatedly from Lending Stream. The loans taken out by Mr M on occasions were unaffordable and unsustainable given his other short term lending and outgoings. Relying on what Mr M said about his outgoings without carrying out more robust checking was irresponsible.

Mr M has had the benefit of the money so I think it is only fair that he pays it back but I agree with the adjudicator that all interest and/or charges applied to loans four to six should be refunded and all adverse information recorded on Mr M's credit file about these loans should be removed.

my final decision

My final decision is that I uphold this complaint. In full and final settlement of it Lending Stream LLC should do the following:

- refund any interest and/or charges applied to loans four to six inclusive together with 8% simple interest per year from the time that the interest and charges were paid to the time Mr M gets it back.
- remove any adverse information recorded about the refunded loans from Mr M's credit file.

*HM Revenue & Customs requires Lending Stream LLC to take off tax from this interest. Lending Stream LLC must give Mr M 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 M to accept or reject my decision before 18 September 2017.

Emma Boothroyd
ombudsman