

## complaint

Mr S complains that Gain Credit LLC gave him loans that he couldn't afford to repay. He asks that it refunds interest and charges.

## background

Mr S took out ten loans with Gain Credit which he says weren't affordable. The adjudicator recommended that the complaint should be upheld. He said Gain Credit made proportionate checks before loans 1 to 4. The information it received suggested the loans were affordable. But Gain Credit should have made further checks before the fifth and later loans as Mr S's borrowing pattern could indicate reliance on short term loans. Had it made more checks, it would have known the loans weren't affordable. Mr S's outgoings exceeded his income.

The adjudicator said Gain Credit should refund interest and charges on loans 5 to 10, with interest at 8%, and remove adverse information about the loans from Mr S's credit file. Gain Credit didn't agree. In summary, it said the information it received suggested the loan repayments 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.

Mr S took out ten instalments loans with Gain Credit between October 2015 and May 2017:

Loan number	Date borrowed	Amount borrowed	Highest instalment due	Date repaid
1	28 October 2015	£389	£161.05	28 April 2016
2	31 January 2016	£260	£110.10	28 July 2016
3	19 June 2016	£100	£43	1 August 2016
4	5 September 2016	£300	£132	6 October 2016
5	21 October 2016	£400	£176	8 November 2016
6	11 December 2016	£150	£66	4 January 2017
7	21 January 2017	£100	£42.40	11 February 2017
8	4 February 2017	£300	£127.20	11 February 2017
9	11 February 2017	£50	£21.20	28 March 2017
10	12 May 2017	£250	£110	27 June 2017

When Mr S took out the first loan he told Gain Credit his monthly income was £1,280 and his expenditure was £837. When Mr S applied for loans 2 to 4 he said his monthly income was £1,400 and his expenditure was £760 to £860. I think, given the amount of the loan repayments and Mr S's stated income, the checks made by Gain Credit were proportionate. The information it received suggested the loans were affordable.

When Mr S took out the fifth loan I think Gain Credit should have made further checks. Mr S had been borrowing from it for nearly a year without a significant break. This could suggest a problem, such as reliance on short term loans. I think Gain Credit should have asked for

information to gain a full understanding of Mr S financial circumstances. While there are different ways of doing this, one is to look at his bank statements as I've done.

Mr S told us about his financial circumstances and provided bank statements to support what he said. Mr S's monthly income was about £1,350 to £1,400. His normal monthly living costs (including rent, utilities, groceries, clothes and payments to DVLA) were about £900. He made payments each month of about £400 for phone and media contracts and to credit card accounts. Mr S's bank statements show regular use of short term loans, some of which were outstanding when he took the fifth loan from Gain Credit. There are a number of payments to gambling businesses. Mr S's bank statements show his circumstances were similar when he took out the later loans.

I think if Gain Credit had made proportionate checks it would have known Mr S couldn't afford further borrowing. I think it would also have been alerted to the possibility that Mr S was borrowing to repay existing debts.

I don't think Gain Credit should have agreed to lend to Mr S after, and including, the fifth loan (taken out in October 2016). So for each of those loans Mr S should:

- Refund all interest and charges that Mr S 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 S's credit file.

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

### **my final decision**

My decision is that I uphold this complaint. I order Gain Credit LLC to adjust Mr S's credit file and pay the compensation set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 23 May 2018.

Ruth Stevenson  
**ombudsman**