

complaint

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

background

Mr P took out 28 short term loans with Lending Stream between August 2012 and August 2015. Most of these were repayable over six months (see appendix). He said that the business didn't carry out proper affordability checks and allowed him to continue borrowing when he was in financial difficulty.

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 P about his income and outgoings. It says it was reasonable for it to rely on what Mr P said about his spending.

Our adjudicator recommended that the complaint should be upheld in part. He thought that Lending Stream should have carried out more checks about why Mr P needed to keep borrowing so often at the time of the fourth loan. He thought that the fact that Mr P asked for additional loans whilst earlier ones were still running indicated he might be in financial difficulty. He thought that Lending Stream should have carried out more checks and if it had it would have seen that loans 5 – 28 were unaffordable. He recommended that all interest and charges incurred on loans 5 – 28 should be refunded, and adverse entries on Mr P's credit file relating to these loans removed.

Lending Stream offered to refund interest and charges on loan 1 – because it hadn't recorded the result of any credit check it might have done – and loan 26 – because it gave Mr P this loan only a day after it had provided loan 25. It doesn't think it should refund any more than this.

Mr P rejected this offer 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 P, 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 P.

Lending Stream says it asked Mr P about his income and outgoings and did a credit check before agreeing to lend to him. It factored any information from this into its own internal scoring system, and says Mr P passed its threshold for lending each time. I don't know exactly what Lending Stream would have seen on Mr P's credit file, but I accept it was enough to support Lending Stream's decision to lend.

Lending Stream has offered to refund loan one, so I don't need to say much more about that. But I will take it into account in the rest of the decision as it's part of Mr P's borrowing history.

Looking at the first three loans, there was nothing in Mr P's borrowing history that should have alerted Lending Stream to carry out more checks than it did. Mr P said that he was earning £1100 and that his outgoings were £400 for loan two and £500 for loan three. I think the checks were proportionate to the size of the loans and Mr P's self declared income and outgoings. Although Mr P applied for loan three before he'd fully repaid loan two, the combined payments seemed affordable. I think it was reasonable for Lending Stream to approve these loans.

Before the third loan was repaid Mr P asked for a further loan of £250. I think the repeated requests for loans before previous ones were repaid should by now have alerted Lending Stream to the fact that Mr P might be becoming reliant on this type of lending. I think that Lending Stream should have taken a closer look at Mr P's circumstances before agreeing to lend him this money. I can't see that Lending Stream did that, so I don't think its enquiries went far enough. If Lending Stream had made those enquiries I think Mr P would have explained that he had a loan with another short term lender. But I also think that taking that repayment into account Mr P was still left with enough disposable income to be able to afford his repayments on loan three and four. So I don't think the shortcomings in Lending Streams approach affected Mr P negatively.

Mr P applied for loan five less than a month after he got loan four. He was still making repayments on loans three and four. For much the same reason as I gave above, I think Mr P's borrowing pattern should have alerted Lending Stream to the fact that it should get a full picture of his circumstances before it lent. And I think it was reasonable for it to have independently verified the information.

Lending Stream didn't do that. I think if it had it would have seen that Mr P had another short term loan from a different lender and that he'd also spent half of his income gambling. Mr P didn't have any money left to repay Lending Stream and meet his normal living costs. I don't think Lending Stream should have given Mr P this loan.

Given that I think Lending Stream shouldn't have given Mr P loan five, I think it should have continued to get a full picture of his financial position before lending again. Mr P's position didn't improve throughout the time he was borrowing from Lending Stream. He continued to gamble and borrow from other short term lenders. Lending Stream should have been able to see that Mr P was relying on short term lending – much of it overlapping loans from Lending Stream itself – to meet his regular financial commitments and every day expenses.

Although Mr P 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 P wanted and needed the loans because of the debt he was in and his gambling. Lending Stream ought to have known this was the case at the time of the application for the fifth and subsequent loans and done more thorough checking of his circumstances.

I accept that Mr P appeared to be meeting his repayments to Lending Stream, but I don't think this is enough to say that the loans were affordable: Mr P seems only to have been meeting his repayments by borrowing more money from other payday lenders, and by borrowing repeatedly from Lending Stream.

Mr P has had the benefit of the money so I think it is only fair that he's paid it back but I agree with the adjudicator that all interest and/or charges applied to loans 5 - 28 should be refunded, and all adverse information recorded on Mr P's credit file about these loans should be removed. Loan 1 should be refunded as agreed by Lending Stream.

my final decision

My final decision is that I uphold this complaint. Lending Stream LLC should now:

- refund any interest and/or charges applied to loans 1 and 5 - 28 together with 8% interest* per year from the time that the interest and charges were paid to the time Mr P gets it back.
- remove any adverse information recorded about the refunded loans from Mr P's credit file.

*HM Revenue & Customs requires Lending Stream LLC to take off tax from this interest. Lending Stream LLC must give Mr P 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 P to accept or reject my decision before 17 November 2017.

Sue Peters
ombudsman

Appendix

Summary of loans

| Loan | Reference | Loan taken | Amount | Date repaid |
|------|-----------|------------|--------|-------------|
| 1 | 1164029 | 07/08/12 | £250 | 28/08/12 |
| 2 | 1252409 | 11/10/12 | £255 | 29/03/12 |
| 3 | 1441033 | 03/03/13 | £200 | 30/08/13 |
| 4 | 1529730 | 04/05/13 | £235 | 31/10/13 |
| 5 | 1571171 | 01/06/13 | £120 | 31/10/13 |
| 6 | 1677162 | 11/08/13 | £260 | 31/01/14 |
| 7 | 1711190 | 06/10/13 | £70 | 28/02/14 |
| 8 | 1751782 | 04/10/13 | £130 | 31/03/14 |
| 9 | 1788466 | 02/11/13 | £150 | 30/04/14 |
| 10 | 1863884 | 04/01/14 | £180 | 30/06/14 |
| 11 | 1898325 | 08/02/14 | £160 | 31/07/14 |
| 12 | 1930224 | 08/03/14 | £110 | 29/08/14 |
| 13 | 1956284 | 02/04/14 | £60 | 30/09/14 |
| 14 | 1989552 | 30/04/14 | £180 | 31/10/14 |
| 15 | 2031949 | 03/06/14 | £100 | 28/11/14 |
| 16 | 2065695 | 03/07/14 | £140 | 30/01/15 |
| 17 | 2100146 | 09/08/14 | £120 | 31/03/15 |
| 18 | 2122276 | 01/10/14 | £60 | 31/03/15 |
| 18 | 2152364 | 04/10/14 | £200 | 30/06/15 |
| 20 | 2170733 | 03/11/14 | £120 | 30/06/15 |
| 21 | 2197889 | 23/12/14- | £130 | 28/08/15 |
| 22 | 2223861 | 02/02/15 | £130 | 31/07/15 |
| 23 | 2281408 | 09/04/15 | £170 | 2/09/15 |
| 24 | 2305806 | 04/05/15 | £60 | 2/09/15 |
| 25 | 2365737 | 01/07/15 | £240 | 19/12/15 |
| 26 | 2367397 | 02/07/15 | £90 | 30/11/15 |
| 27 | 2404049 | 03/08/15 | £80 | 29/01/16 |
| 28 | 2439128 | 29/8/15 | £180 | 29/01/16 |