

complaint

Mr S complains Gain Credit LLC (trading as Lending Stream) lent to him irresponsibly.

background

Mr S took 39 loans with Lending Stream between September 2015 and June 2017, borrowing £11,230 in total. Mr S repaid all of these loans successfully, but at the end of June 2017 he made a complaint to Lending Stream that it had – essentially – lent to him irresponsibly because he'd been dependent on short-term loans. This was something he thought Lending Stream should have noticed.

Lending Stream replied to Mr S, rejecting his complaint, in mid-July 2017. In the meantime, Mr S had applied for, and received, another loan of £230 from Lending Stream. The final response to the complaint included this last loan, so I've considered it when coming to my decision. I've listed all of the loans included in this complaint in an appendix to this decision.

Mr S later contacted Lending Stream on the telephone to make some additional points, which resulted in the business sending him an email reiterating its previous position, but offering to reduce the amount he owed on his last loan.

Dissatisfied with this response, Mr S brought his complaint to this service, where it was looked into by an adjudicator. She concluded Lending Stream had been wrong to give Mr S loans 5 to 40. She noted that if Lending Stream had checked closely enough, it would have discovered Mr S was spending a large proportion of his income on gambling, and he was borrowing from a number of other short-term lenders.

Lending Stream didn't agree with our adjudicator's assessment. It said that based on the information it had at the time, Mr S's loans had been affordable, and if he had misrepresented his financial position then he should be held responsible. Our adjudicator replied to Lending Stream's points, which prompted a reply in which it maintained it had lent to Mr S responsibly, but offered to refund the interest on 28 of his loans. Mr S didn't agree with this offer and ultimately the case 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. I've taken into account the law along with any relevant regulatory guidance and good industry practice at the time.

Lending Stream had to assess Mr S's applications for borrowing to check if he could afford to pay back his loans without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. It then needed to assess whether – based on the information it had gathered from its proportionate checks – Mr S could afford to meet his repayments sustainably. By the time Mr S had started borrowing from Lending Stream, the industry regulator had set out rules and guidelines on sustainability. According to the regulator, repayments are sustainable if they're made from income or savings, and while maintaining other financial commitments. So repayments made from the proceeds of additional loans, for example, would not be sustainable.

Lending Stream's given us some information about the checks it carried out. I understand it made some enquiries with a credit reference agency to generate a score for Mr S. As his score was above a certain threshold he "passed" this particular test. Lending Stream also asked Mr S to declare on each loan application his monthly income and expenditure, to determine how much money he had available to make his loan repayments. If the expenditure Mr S reported fell below a certain figure, Lending Stream essentially topped this up to what it considered to be a more reasonable amount. Throughout his borrowing relationship with Lending Stream, Mr S reported his monthly income as an amount between £2,280 and £2,498, and his monthly expenditure as an amount between £430 and £650.

were Lending Stream's checks proportionate?

Like our adjudicator, I think Lending Stream's checks for the first four loans were proportionate to the circumstances. Mr S declared a large income relative to his loans and the repayments he was expected to make, and a fairly low monthly expenditure. As Lending Stream points out, based just on the information Mr S supplied to it – his loans looked to be affordable. So I think Lending Stream's checks, and its decisions to lend, were reasonable for the first four loans.

There comes a point though, where reliance on the information supplied by a borrower is no longer proportionate. In Mr S's case there were some specific aspects of his applications and borrowing history which I think ought to have alerted a responsible lender to the probability that his financial situation was not quite as he'd declared – and therefore for the need to carry out further enquiries before continuing to lend to him.

Based on the figures he'd given, Mr S had on average about £1,750 left over each month after his regular expenditure was accounted for. On the face of it, he had no need for the kind of loans offered by Lending Stream. So I do think a responsible lender would have begun to question why Mr S found it necessary to apply for multiple such loans in a short space of time. Loan 5 was Mr S's fifth loan in less than three months – a pattern of borrowing suggestive of financial difficulty – so I do think Lending Stream should have seen a need to go further in its checks.

From loan 5 onwards then, I think proportionate checks would have involved a very detailed assessment of Mr S's financial position, including the *verification* of what he'd declared about his income and expenditure, and the identification of other features of his situation which might have been influencing his borrowing behaviour. One way in which Lending Stream could have done this was by checking some of Mr S's bank statements.

Lending Stream has noted that Mr S might have refused to provide bank statements if it had asked him for them. I would say that if that had been the case then it was open to Lending Stream simply not to lend further to Mr S. And while I appreciate its point that it wants to offer a fast service to customers, this doesn't override its duty to lend responsibly.

what would proportionate checks have shown for loans 5 to 40?

An analysis of Mr S's bank statements shows that he was, as he'd indicated, a relatively high earner. In fact he earned considerably more in most months than he declared to Lending Stream. For example, in February 2016 his earnings increased to around £3,200, then to about £4,470 the following month. By mid-2016 Mr S's monthly income was around £5,300. Mr S's income fluctuated after this, ending up at around £3,000 per month in June 2017.

Mr S's regular expenditure was also low, consisting of some car-related expenses, child support, a gym membership, a mobile phone bill and different loan repayments at various times.

There were however, two main features of Mr S's financial situation which – taken together – I think would have caused a responsible lender to decline to lend more money to Mr S had it carried out proportionate checks from loan 5 onwards.

As our adjudicator noted in her assessment, Mr S spent a very significant proportion of his income on gambling transactions. For example, in the month before he applied for loan 5, Mr S spent over £3,200 in this way – more than his income at the time. In June 2016 Mr S spent over £5,700 on gambling – an amount which was again in excess of what he earned in that month. In December 2016, a month in which Mr S earned less than £2,000, he gambled more than £6,000. This pattern continued throughout the time Mr S was borrowing from Lending Stream. During this time Mr S was also borrowing from relatives and other short-term lenders, which was how he was able to exceed his earned income in gambling transactions.

Sometimes Mr S did make winnings – and occasionally these winnings came to considerable amounts. However income from gambling is never guaranteed, and based on my analysis of his bank statements it appears Mr S lost more than he won. Ultimately Mr S's ability to repay his loans was dependent on his gambling success and his ability to obtain credit elsewhere. I think if a reasonable lender had considered this situation, it wouldn't have thought Mr S's financial situation was a sustainable one, or that it was responsible to continue lending to him. It follows that I don't think Lending Stream should have accepted Mr S's applications for loans 5 to 40.

putting things right

As Lending Stream shouldn't have given Mr S loans 5 to 40, it's not right that he should have had to pay interest and charges on these, or have them affect his credit file in a negative way. So to put things right I direct Lending Stream to do the following:

- Calculate the amounts in interest and charges Mr S paid in relation to loans 5 to 40. To the individual amounts it should add 8% simple interest*, calculated from the date Mr S originally paid them, to the date the complaint is settled. The resulting total should be paid to Mr S.
- Remove any adverse information it has recorded in relation to loans 5 to 40 from Mr S's credit file.

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

my final decision

For the reasons explained above I uphold Mr S's complaint and direct Gain Credit LLC (trading as Lending Stream) to take the actions outlined in the "putting things right" section of this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 16 March 2018.

Will Culley
ombudsman

appendix – table of loans

Loan	Date Given	Date Paid	Amount
1	17/09/2015	24/09/2015	£120.00
2	05/10/2015	09/12/2015	£320.00
3	12/11/2015	09/12/2015	£220.00
4	11/12/2015	31/05/2016	£210.00
5	14/12/2015	17/12/2015	£50.00
6	17/12/2015	22/12/2015	£450.00
7	04/01/2016	31/05/2016	£320.00
8	05/01/2016	23/06/2016	£300.00
9	07/03/2016	23/06/2016	£230.00
10	05/04/2016	12/05/2016	£300.00
11	13/05/2016	31/05/2016	£240.00
12	14/05/2016	31/05/2016	£250.00
13	01/06/2016	23/06/2016	£420.00
14	03/06/2016	23/06/2016	£370.00
15	29/06/2016	25/08/2016	£820.00
16	31/07/2016	25/01/2017	£150.00
17	10/09/2016	23/02/2017	£150.00
18	13/09/2016	23/02/2017	£200.00
19	16/09/2016	30/03/2017	£120.00
20	07/10/2016	02/11/2016	£340.00
21	12/10/2016	30/03/2017	£100.00
22	11/12/2016	23/02/2017	£420.00
23	30/01/2017	23/02/2017	£730.00
24	28/02/2017	30/03/2017	£400.00
25	06/03/2017	30/03/2017	£280.00
26	11/03/2017	30/03/2017	£120.00
27	20/03/2017	30/03/2017	£150.00
28	13/04/2017	11/05/2017	£410.00
29	14/04/2017	11/05/2017	£240.00
30	18/04/2017	11/05/2017	£150.00
31	05/05/2017	11/05/2017	£350.00
32	13/05/2017	27/05/2017	£200.00
33	15/05/2017	27/05/2017	£200.00
34	22/05/2017	30/06/2017	£110.00
35	04/06/2017	12/06/2017	£380.00
36	06/06/2017	07/06/2017	£550.00
37	08/06/2017	12/06/2017	£300.00
38	13/06/2017	30/06/2017	£310.00
39	15/06/2017	30/06/2017	£250.00
40	08/07/2017	08/09/2017	£230.00