

complaint

Mr C complains that Lending Stream LLC gave him loans that he couldn't afford to repay.

background

Mr C took a total of four loans from Lending Stream between May and August 2015. The first loan was for £500, and Mr C repaid it five days after he took it out. There was a gap of nearly three months before Mr C took out the second loan, for £90. Then, two days after he took out the second loan, Mr C took out a third loan, for £120. Both the second and third loans were still outstanding when Mr C was granted a final loan of £200 ten days later.

Within a fortnight of taking out the fourth loan Mr C told Lending Stream he'd entered into a debt management plan. He set up a payment arrangement with Lending Stream, and has since cleared the balances on all the loans he had with it. But he says he was dependant on payday loans and couldn't afford them. He doesn't think Lending Stream carried out proper affordability checks before making the loans to him.

Our adjudicator recommended that the complaint should be upheld in part. Briefly, she thought that if Lending Stream had conducted suitable checks before making the third and fourth loans, it would have been apparent that Mr C was in a cycle of payday lending to keep himself afloat, and was borrowing to cover a gambling habit. So she didn't think it had lent responsibly when it made the third and fourth loans. She recommended that Lending Stream refund all interest and charges on those two loans, with interest on the refunds, and that it remove any negative information about those loans from Mr C's credit file.

After the adjudicator issued her view, Lending Stream offered to do as the adjudicator had recommended, but only in relation to the fourth loan. It pointed out that when Mr C applied for loan three, the credit check it carried out didn't show any defaults or delinquent loans with other lenders And the number of active loans he had hadn't changed since he'd applied for the second loan. It said that based on what Mr C told it, his disposable income was around nine times the borrowed amount. It believes that if the second loan is considered to have been affordable, then it follows that the third loan should also be considered to have been affordable.

The adjudicator's view remained unchanged, so the complaint was passed to me.

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 also taken into account the law, any relevant regulatory rules and good industry practice at the time the loans were offered.

Lending Stream was required to lend responsibly. It needed to make checks to see whether Mr C could afford to pay back each loan before it lent to him. Those checks needed to be proportionate to things such as the amount Mr C was borrowing, the length of the agreements and his borrowing history. But there was no set list of checks Lending Stream had to do.

Lending Stream has told us that it asked Mr C about his normal income and expenditure before agreeing to make each loan. And it carried out a credit check each time. The first loan was £500, and was repayable over six months. The information that Mr C gave Lending

Stream at the time suggested that he had a significant disposable income each month after taking his normal expenses into account. Given that this was the first loan Mr C applied to Lending Stream for, and there was no reason to suspect that the information he'd given it wasn't accurate, I don't think it was unreasonable of Lending Stream to make the first loan without carrying out more detailed checks.

I am also satisfied that the checks Lending Stream carried out before making the second loan were proportionate, in view of the gap since he'd repaid the first loan, the much smaller amount Mr C was applying to borrow, and the information he'd provided about his income and expenditure.

But I think that Lending Stream should have found out more about Mr C's financial circumstances before agreeing to make the third loan. I accept that the credit check that it carried out didn't show any increase in the number of loans Mr C had, and didn't show any defaults. But I think the fact that Mr C was applying to borrow further, just two days after he'd taken out loan two - and despite the fact that he'd told it his disposable income had increased - ought to have prompted Lending Stream to carry out further checks to get a full picture of his financial circumstances.

If it had done so, it would have seen that in addition to owing a significant amount to other short-term lenders, Mr C was making numerous gambling transactions, which were taking up well over half his income each month. And he was borrowing from one lender to repay another. So I think it should have been clear to Lending Stream that further borrowing was unlikely to be sustainable for Mr C, and it should have refused to lend further.

Lending Stream should refund interest and charges applied to the third and fourth loans. And it should remove any adverse information about those loans (late/missed payments, defaults etc.) from Mr C's credit file.

my final decision

My final decision is that I uphold Mr C's complaint in part. To put things right Lending Stream LLC should:

- refund all interest and charges Mr C paid on the third and fourth loans, taken out in August 2015;
- pay interest on these refunds at 8% simple* per year from the dates of payment to the date of settlement;
- remove any adverse information about the third loan from Mr C's credit file.

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

Juliet Collins
ombudsman