

complaint

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

background

Mr B took out five short term loans with Lending Stream between August and October 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.

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 B about his income and outgoings. It explained that it was reasonable to rely on what Mr B said and the loans were affordable. It offered to refund all of the interest and charges incurred on the third loan as this was granted in error.

Our adjudicator recommended that the complaint should be upheld in part. She thought that Lending Stream should have carried out more checks around Mr B's outgoings for all of the loans but she thought that better checks wouldn't have made any difference for loans 1-4. She thought that by the time of the fifth loan Lending Stream should've verified what Mr B was saying about his finances and if it had done, it would've seen that loan five was unaffordable for Mr B because of his considerable gambling. She recommended that all interest and charges incurred on this loan 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. As Lending Stream has agreed to refund the interest and charges incurred on loan 3 I have not looked into this loan as this is fair and reasonable.

Before agreeing to lend to Mr B, 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 B.

Lending Stream says it asked Mr B 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 B's credit file but I accept it might not be the full credit information.

Looking at loans 1 and 2 Mr B said that he was earning £2360 and his outgoings were £500. Lending Stream has said this consisted of credit and "other" payments. It has also pointed out that it used its own minimum figure for outgoings if this was higher than what was declared. But even if Lending Stream had asked more detailed questions about Mr B's outgoings I agree with the adjudicator that it is likely Mr B would have said they were around £850 and so the loans were still affordable.

Mr B asked for the fourth loan only 2 days after taking out loan 3. Asking for this loan before the previous loan was repaid was an indication that Mr B might be reliant on short term credit. I think that Lending Stream should have taken a closer look at Mr B's circumstances before agreeing to lend him this money. I can't see that Mr B was asked why he needed to borrow so often given his declared level of disposable monthly income. But again I think that if Mr B had been asked more detailed questions about his outgoings and in particular any other short term lending, the loan would have appeared affordable. His income was £2400 and his outgoings including other short term lending commitments left him with over £1000 disposable income.

Mr B applied for loan five just over a week after loan 4. This time he asked for £350. This was a significant increase in Mr B's borrowing and the fourth application for a loan within a four week period. I agree with the adjudicator that if Lending Stream had done more checks for this loan it would've seen his, by now, significant gambling transactions.

From the point of the fifth loan Lending Stream should've been alerted to the possibility that Mr B was relying on short term lending given his borrowing pattern.

Although on the face of it Mr B said he had enough money coming in to meet the repayments his pattern of borrowing from Lending Stream suggested otherwise. As a responsible lender I think that Lending Stream should've done more to verify what Mr B was saying as this was inconsistent with his borrowing pattern.

I appreciate that Lending Stream say that it does not ask for bank statements. But relying on what Mr B said about his outgoings without carrying out more robust checking was irresponsible.

Mr B 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 loan five should be refunded together with the refund agreed for loan three and all adverse information recorded on Mr B'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 three and five together with 8% simple interest per year from the time that the interest and charges were paid to the time Mr B gets it back.
- remove any adverse information recorded about the refunded loans from Mr B's credit file.

*HM Revenue & Customs requires Lending Stream LLC to take off tax from this interest. Lending Stream LLC must give Mr B 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 B to accept or reject my decision before 8 February 2018.

Emma Boothroyd
ombudsman