complaint

Mr F complains that Lending Stream LLC gave him loans that he couldn't afford.

background

Mr F took out a total of 14 loans with Lending Stream between March 2015 and May 2017. Each loan was due to be repaid in six monthly instalments. Details of the loans are as follows:

Loan	Date	Amount (£)	Maximum monthly instalment (£)	Date repaid in full
1	9 March 2015	100	44.80	24 April 2015
2	25 April 2015	300	134.40	28 April 2015
3	16 May 2015	130	58.24	26 May 2015
4	30 May 2015	150	67.20	24 July 2015
5	23 Aug 2015	200	89.60	21 Dec 2015
6	7 Jan 2016	320	143.36	26 Feb 2016
7	27 Feb 2016	700	324.80	26 Aug 2016
8	17 May 2016	100	45.60	4 Sept 2016
9	5 Sept 2016	910	400.40	3 Oct 2016
10	16 Nov 2016	330	158.40	5 Jan 2017
11	5 Dec 2016	400	192	5 Jan 2017
12	30 Jan 2017	750	318	14 Feb 2017
13	1 April 2017	730	315.36	3 May 2017
14	11 May 2017	930	424.08	-

Mr F says he was struggling, and was juggling loans from several different payday lenders at the time. He says he was taking out loans just to repay other loans. And in the end the combined repayments grew so large that he couldn't keep up. He says he also had a gambling problem, which he believes would have been apparent from his bank statements. He considers that the various lenders took advantage of him when he was in a desperate situation. And he believes that Lending Stream wouldn't have agreed to the loans if it had carried out proper checks.

Our adjudicator recommended that the complaint should be upheld in part. In summary, she thought the checks that Lending Stream did before making the first two loans went far enough. And she thought that even if Lending Stream had carried out more detailed checks before making loan 3, it could still reasonably have concluded that the loan would be affordable to Mr F.

But from loan 4 onwards, the adjudicator thought that Lending Stream should have undertaken a full review of Mr F's financial situation before agreeing to lend. She thought that if it had done so, it would have been aware of Mr F's gambling habit. And it would have realised that given his pattern of spending, it was likely that he'd be unable to repay the loans sustainably.

So the adjudicator recommended that Lending Stream refund all interest and charges that Mr F paid on loan 4 onwards, with interest on the refund. And she recommended that it remove any negative information about those loans from Mr F's credit file.

After the adjudicator issued her view, Lending Stream offered to do as she had said, but only in relation to loans 3, 4, and 11. It also offered to waive all interest and charges on the final loan and set up a payment arrangement for Mr F to repay the outstanding balance.

Mr F wasn't happy with Lending Stream's offer, so the complaint has been 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.

Lending Stream was required to lend responsibly. It needed to make checks to see whether Mr F 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 F was borrowing, the length of the agreements and his borrowing history. But there was no set list of checks Lending Stream had to do.

Before agreeing to lend, Lending Stream asked Mr F for details of his regular income and expenditure. And it carried out a credit search. Mr F told it his monthly take-home pay was £1,500. The highest monthly instalment on loan 1 was £44.80. Lending Stream was entitled to rely on the information that Mr F gave it, in the absence of anything to suggest that it might be inaccurate. And on the basis of that information, I don't think there was anything which should have alerted it to the possibility that the loan might not be affordable for Mr F.

It's true that the highest repayment due on loan 2 was significantly more than it had been on loan 1. But £134.40 was still a relatively small proportion of Mr F's declared take-home pay. And I don't think it was unreasonable of Lending Stream to conclude that the loan would be affordable to him.

Mr F had repaid both the first two loans early, in full, by the time he applied for loan 3. But I think that by this time Lending Stream might reasonably have been starting to have some concerns about Mr F's repeated borrowing.

Lending Stream has offered to refund all interest and charges on loans 3 and 4, with statutory interest at 8% on the refunds, and to remove all negative information about those loans from Mr F's credit file. This is on the basis that it accepts that it approved the loans in quick succession, and that this might have made Mr F's circumstances difficult. The refund it has offered is in line with what I would think is reasonable. So I don't need to make any further findings in relation to those loans.

Loan 5 was the fifth loan Mr F had applied to Lending Stream for in less than six months. I acknowledge that he'd repaid all loans up to that point early. But in each case, he'd applied to borrow again within a relatively short period. And I think the frequency of Mr F's borrowing should have alerted Lending Stream to the possibility that his financial circumstances weren't as straightforward as his repayment history might suggest.

Taking everything into account, I think that Lending Stream should have got a full picture of Mr F's financial situation before agreeing to lend further. It needed to check independently to see what he was earning and spending each month. This is something I've tried to do by looking at Mr F's bank statements. From what I've seen, I'm satisfied that if Lending Stream had looked as carefully into Mr F's financial situation as it should have done, it would have realised that the reason for his repeated borrowing was that he had a serious gambling habit.

It's true that I wouldn't expect a lender to make judgments about what a consumer chooses to spend their money on. But Mr F's gambling is relevant to the question of whether it was likely that he'd be able to repay the loans without having to borrow again to do so. In other words, Mr F's gambling habit was relevant when considering whether he was borrowing *sustainably*. And I'm satisfied that if Lending Stream had looked in as much detail as it should have done into Mr F's circumstances, it would have seen that he was spending a large proportion of his income each month on gambling, and was only getting by by taking out loans from Lending Stream and other short-term lenders.

Mr F's position didn't improve significantly during the rest of the time he was borrowing from Lending Stream. And I think that if it had carried out proportionate checks, it would have realised that he was unlikely to be in a position to repay loan 5 onwards sustainably.

putting things right

To put things right, Lending Stream should:

- refund all interest and charges Mr F paid on all loans from loan 3 onwards;
- pay interest on these refunds at 8% simple* per year from the dates of payment to the date of settlement;
- apply the refund to reduce the capital outstanding and pay any balance to Mr F;
- write off any interest and charges that haven't yet been paid; and
- remove any negative information about the loans referred to in the first bullet point above from Mr F's credit file.

*HM Revenue & Customs requires Lending Stream to take off tax from this interest. Lending Stream must give Mr F 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 in part. I require Lending Stream LLC to put things right by doing as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 27 November 2017.

Juliet Collins
ombudsman