

complaint

Mr M complains that Lending Stream LLC gave him unaffordable instalment loans. He wants his position restored.

background

Mr M had eight instalment loans from Lending Stream between August 2013 and August 2014. He said he was in financial difficulties at the time, borrowing from other lenders and gambling. Lending Stream said it had carried out appropriate affordability checks which showed that the loans were affordable for Mr M. However, it said that it had made procedural errors for two loans and so it offered some redress for these. But Mr M declined this offer.

Our adjudicator recommended that the complaint should be upheld in part. He thought Lending Stream had made proportionate and sufficient affordability checks for loans one and two but not thereafter. He thought that if it had made enough checks, it would have seen that Mr M didn't have any disposable income to repay these loans without additional borrowing.

So the adjudicator thought it had been wrong for Lending Stream to provide loans three to eight. He thought it should refund Mr M's interest and charges for these loans, with interest, and remove any related adverse information from his credit file.

Lending Stream replied that Mr M had stated that he had sufficient disposable income to repay the loans. But it thought two loans had been offered in quick succession. So it offered redress for loans three and eight, but Mr M declined this offer.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr M borrowed amounts ranging between £60 and £390. Loans one to seven were to be repaid in six monthly instalments whilst loan eight was over 24 months. Mr M repaid all the loans early.

Loan one for £300 was to be repaid in six instalments, the largest being for £102. Loan two was taken out six days after loan one and Mr M's repayments overlapped. His largest expected monthly repayment was £133. Loan three for £130 was taken out three weeks after loan two. Mr M now had three loans running. His largest expected repayment was now £187. This pattern continued until Mr M repaid his first six loans in January 2014. Six months later, he borrowed loan seven for £390 and then a further £200 two weeks after that.

Lending Stream was required to lend responsibly. It should have made checks to make sure Mr M could afford to repay the loans before it lent to him. Those checks needed to be proportionate to things such as the amount Mr M was borrowing, and his lending history. But there was no set list of checks Lending Stream had to do.

Lending Stream asked Mr M for his monthly income, which was £1,300 after tax for all his loans. It asked for his monthly expenditure for loans two to seven, but not for one and eight. He said this was £850 for loans two to six and £300 for loan seven. It also carried out a check on Mr M's credit score for each loan.

I agree with the adjudicator that Lending Stream's affordability checks were proportionate and sufficient for loans one and two. The expected monthly instalments were small compared to his stated disposable income and so looked affordable. So I can't say it was wrong for Lending Stream to approve them.

But when Mr M asked for loan three, this was his third loan request in three weeks. So I think this should have prompted Lending Stream to ask further questions. I think it should have asked Mr M about his other financial commitments, both regular and short-term to check that he could afford the repayments. So I think Lending Stream's affordability checks weren't sufficient from this point onwards.

Mr M asked for loan four the same day he repaid loan two. I think Lending Stream should then have been concerned about a dependency on short-term borrowing and whether Mr M could sustain his repayments.

There was a gap in the borrowing after loan six was repaid. But I agree with the adjudicator that Lending Stream should have been prompted by what it already knew about Mr M's borrowing and the decrease in his stated expenditure to ask further questions.

I've looked at Mr M's bank statements from the time to get information about his finances, but Lending Stream could easily have asked Mr M for it. These show that from loan three onwards Mr M's expenditure for his normal living costs, his bills and his other credit commitments exceeded his income. He didn't have any disposable income to repay his loans from Lending Stream.

So I think that if Lending Stream had made sufficient checks, it would have seen, as I have, that Mr M couldn't afford loans three to eight. So I think it was wrong to approve them. Lending Stream has offered redress for two loans, but I don't think this goes far enough.

my final decision

My final decision is that I uphold this complaint in part. I require Lending Stream LLC to do the following:

1. Refund Mr M the interest and charges he paid on loans three to eight, adding interest at 8% simple per annum from the date of payment to the date of settlement.
2. HM Revenue & Customs requires Lending Stream to withhold income tax from that interest. It must give Mr M a certificate showing how much it's taken off if he asks for one.
3. Remove any adverse information relating to these loans from Mr M's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 20 October 2017.

Phillip Berechree
ombudsman