

complaint

Mr K complains that Lending Stream LLC shouldn't have given him instalment loans because of his bad credit history. He wants a refund of the interest he paid.

background

Mr K had 37 instalment loans from Lending Stream between May 2013 and October 2016. He said he was borrowing increasing amounts to repay earlier loans and the loans were unaffordable.

Lending Stream said it had carried out appropriate affordability checks. But it agreed that some of its loans had made Mr K's circumstances difficult. So it refunded interest and charges, with interest, for 12 loans and waived those on the last loan. But Mr K thought this didn't go far enough.

Our adjudicator recommended that the complaint should be upheld in part. She thought Lending Stream's affordability checks had been proportionate and sufficient for the first four loans, but not thereafter. She thought sufficient checks would have shown that Mr K didn't have enough disposable income to repay some of his loans. So she thought Lending Stream should refund interest and charges for these, with interest, less any principal still owed, and remove adverse information from Mr K's credit file.

Lending Stream replied that it had carried out sufficient checks. It said it wasn't responsible for Mr K providing inaccurate information about his expenditure. It had already made redress for loans which it thought had made Mr K's situation difficult.

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 K's loans ranged between £70 and £900. He repaid most of them early, except for the last loan. This has now been settled as the principal was deducted from the refund of 12 loans made by Lending Stream.

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

Lending Stream asked Mr K for his monthly income, which ranged between £1,420 and £2,500 after tax, and for his expenditure. It also checked his credit score.

Loans one to three were for £115 and loan four was for £350. The repayments were in instalments. Mr K's monthly disposable income at the time ranged between £620 and £920. So the loans looked affordable. I think Lending Stream's checks for these loans were proportionate and sufficient. So I can't say it was wrong to approve them.

Loan four was still running when Mr K asked for loan five for £100. This was his fifth loan in four months. So I think Lending Stream should have been prompted to make full enquiries into Mr K's financial circumstances before lending to him again.

I've looked at Mr K's bank statements from the time to get this information, but Lending Stream could easily have asked Mr K for it. I can see that Mr K had sufficient disposable income to repay loan five. I think the same checks would also have found loan six was affordable. So I think that if Lending Stream had made sufficient checks, it would have found that loans five and six were affordable. So I can't say it was wrong to approve them.

Mr K continued borrowing from Lending Stream continuously for the next three years. I think Lending Stream should have made the same enquiries for all these loans. So I've looked at Mr K's disposable income for the loans where no refund has been given to see if sufficient checks would have found them affordable or not.

I think sufficient checks would have found that Mr K didn't have enough disposable income to repay loans seven, twelve, fourteen, and from loan twenty four onwards. His income was accounted for by his living costs, his increased repayments for other short-term loans and his gambling. I think if Lending Stream had made sufficient checks it would have seen this. And it would have found it was irresponsible to approve further loans. So I think it was wrong for Lending Stream to approve these loans.

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 K the interest and charges he paid on loans seven, twelve, fourteen and from twenty four onwards, adding interest at 8% simple per annum from the date of payment to the date of settlement. Any principal still outstanding should be deducted and the rest paid to Mr K.
2. HM Revenue & Customs requires Lending Stream to withhold income tax from that interest. It must give Mr K 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 K's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 14 August 2017.

Phillip Berechree
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