

complaint

Mr G complains about two instalment loans that he took out with Gain Credit LLC, trading as Lending Stream, ("LS"). The complaint is brought to this service on Mr G's behalf by a firm of solicitors. But for ease I shall refer below to all actions being taken by Mr G.

background

Mr G took out two instalment loans with LS. Both loans were repayable by six monthly instalments and haven't been repaid. The loans were as follows:

Loan 1 - £500 on 23 November 2015

Loan 2 - £300 on 20 January 2016

Mr G said the loans were unaffordable, taking account of his income and expenditure at the time of drawdown. And taking account of his financial history, he wasn't creditworthy. Mr G said that if LS had asked for copies of his bank statements, these would have shown that he had a very bad gambling problem, and that he borrowed more payday loans straight after repaying other payday loans.

LS said that it had carried out proper and proportionate affordability checks at the time of each loan. Prior to giving the loans, it had asked Mr G for details of his income and expenditure. It had increased the amount of Mr G's declared outgoings using national averages, but the increased outgoings' amounts still resulted in a viable disposable income. It had also checked details held by a credit reference agency ("CRA"). It said that the CRA's ratings were satisfactory for Mr G's loan obligations.

The adjudicator said that the checks LS had made on both loans were sufficient. He said that based on what Mr G had declared to LS, the loans appeared to be affordable. So, he concluded that LS wasn't wrong to lend.

Mr G disagreed and asked for an ombudsman to review his complaint. He provided his bank statements for the period of the loans in response to the adjudicator's request for any more information which he wished to be considered.

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 note that Mr G had issued court proceedings against LS. I was concerned that the subject matter of this complaint was being dealt with in court proceedings which might have meant that the complaint would have to be dismissed. I asked the adjudicator to ask Mr G's solicitor's for the current position in those proceedings. They said that the court proceedings concerned LS's failure to respond to Mr G's Data Subject Access Request. These were resolved prior to Mr G's complaint being sent to this service. They confirmed that no court proceedings had been commenced about irresponsible lending. So I'm satisfied that I can proceed with this decision.

LS was required to lend responsibly. It should have made checks to make sure Mr G could afford to repay each of the loans before it lent to him. Those checks needed to be

proportionate to things such as the amount Mr G was borrowing, the length of the agreement and his lending history. But there was no set list of checks LS had to do.

The Financial Conduct Authority was the regulator at the time Mr G borrowed from LS. Its regulations require lenders to take *“reasonable steps to assess the customer’s ability to meet repayments under a regulated credit agreement in a sustainable manner without the customer incurring financial difficulties or experiencing significant adverse consequences.”* The regulations define ‘sustainable’ as being able to make repayments without undue difficulty, and say that this means borrowers should be able to make their repayments on time and out of their income and savings without having to borrow to meet these repayments.

I’ve thought carefully about the checks LS said that it had made. I note that LS said that it had carried out checks with a CRA. I’ve not seen any details about LS’s credit checks other than its credit scores. I have seen a copy of Mr G’s credit report which shows there were two defaults before Loan 2 and other payday loans taken before both loans which remained to be paid. I’m aware that when a lender carries out a credit check, the information it sees doesn’t usually provide the same level of detail that a consumer’s credit search will and it isn’t necessarily up to date. A lender might only see a small portion of a borrower’s credit file, or some data might be missing or anonymised. I’m also aware that not all payday and short term lenders report to the same credit reference agencies. So, Mr G may have taken other payday or short term loans prior to LS’s loans which may not have been identified by LS’s credit check. And the defaults may have appeared after LS had carried out its checks as its check wouldn’t necessarily have been up to date. So, this may explain any differences between the information provided by LS’s credit check and Mr G’s actual situation.

I’ve thought about whether LS’s other checks were proportionate for the loans. I note that for Loan 1, Mr G needed to make six monthly repayments of varying amounts from around £104 to £224 to repay it. I can see that the repayments were relatively modest compared to the income of £1,700 and the expenditure of £650 Mr G declared to LS. I note that LS raised Mr G’s declared outgoings slightly to £661 to take into account national averages. This resulted in a disposable income of £1,039 for Mr G. I don’t think at that stage of its relationship with Mr G that LS had any reason to doubt the information he’d provided, and I don’t think it was unreasonable for LS to rely on this information. Mr G hadn’t borrowed from LS before, and the repayment amounts seemed affordable in comparison to the disposable income of £1,039 which LS had calculated. So I think it was reasonable for LS to give Mr G loan 1.

I note that Mr G applied for Loan 2 less than two months after Loan 1. The amount he borrowed had decreased to £300, although Mr G would be repaying Loans 1 and 2 at the same time for four months with a highest joint repayment of around £299 in March 2016. LS had raised Mr G’s declared outgoings to £748 to reflect national averages. And it had calculated his disposable income at £1,002. I don’t think there was quite enough of a pattern here to make me think that LS should have done more extensive checks than it did. And I think that it was still reasonable for LS to base its lending decision on the information Mr G had provided. And that information suggested the combined repayments were still affordable for Mr G. So, I don’t think that LS acted incorrectly in giving Mr G loan 2.

I note that Mr G has provided bank statements to this service. But at the time of Loans 1 and 2, I wouldn’t have expected LS to have asked for Mr G’s bank statements or for it to have carried out any further checks. I think it was proportionate for LS to base its lending

decisions for both loans on the income and expenditure information Mr G provided to it without needing to see his bank statements.

I appreciate that Mr G will be disappointed with my decision. I note that he said that he was under a tremendous amount of financial pressure as he was gambling heavily. But that wasn't something he told LS about when he asked for the loans. And I don't think it was something that LS would have discovered from what I consider to be proportionate checks.

my final decision

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 21 January 2019.

Roslyn Rawson
ombudsman