

complaint

Mr W complains that Lending Stream LLC gave him loans that he couldn't afford to repay. He asks that it refunds interest and charges and removes information about the loans from his credit file. Mr W is represented by a claims management company.

background

Mr W took out 21 loans with Lending Stream. The adjudicator recommended that the complaint should be upheld. He said the checks made by Lending Stream were proportionate for loans 1 to 6 and loans 19 to 21. But it should have made further checks before loans 7 to 18. By loan 7 Mr W's borrowing pattern suggests a possible problem. And Lending Stream's credit check shows his credit score had dropped and he had a number of loans with other lenders. Had it made proper checks, Lending Stream would have known Mr W had existing short term commitments that made further borrowing unaffordable.

The adjudicator said Lending Stream should refund interest and charges on loans 7 to 18, with interest at 8%, and remove adverse information about the loans from Mr W's credit file.

Lending Stream didn't agree. It said the loans were affordable based on the information provided by Mr W. Lending Stream said it asked Mr W to disclose other debts and obligations. It said its credit check didn't provide details about other loans and it doesn't ask customers for bank statements because of the Data Protection Act.

Lending Stream offered to refund interest and charges on loan 11 and loan 21 as they were approved in quick succession. Mr W declined its offer.

my provisional findings

As I didn't agree with all of the adjudicator's recommendations, I sent a provisional decision to the parties to explain why. In it, I set out the following provisional findings:

Loans 1 to 4 (October 2012 to May 2013)

Mr W took out four loans between October 2012 and May 2013. Each loan was repayable in six monthly instalments, the highest of which was £190. Mr W repaid each loan early, before taking out the next loan.

Mr W told Lending Stream his income was £1,450 and his expenditure was £500 to £550. I think, given the amount of the instalments and Mr W's stated income, the checks made by Lending Stream were proportionate. Based on the information it received, the loans appeared affordable.

Loan 5 (May 2013)

Mr W took out the fifth loan in May 2013. He said his monthly income was £1,450 and his expenditure was £500. The loan was repayable in six monthly instalments, the highest of which was £150. This was Mr W's fifth loan in about seven months and the second that month. This borrowing pattern could suggest a problem, such as reliance on short term loans. While it says it didn't have details about each loan, Lending Stream was aware from its credit check that Mr W had loans from other lenders.

I don't think it was enough for Lending Stream to rely on answers to its standard application questions. I think it should have asked for information to gain a full understanding of Mr W's

financial circumstances. There are different ways in which Lending Stream could have made these checks. I've looked at Mr W's bank statements as this is the best evidence available to me about Mr W's financial circumstances when he took out the loans.

While Mr W's monthly income varied, the average between February and April 2013 was about £1,460. His bank statements show short term loans with payments to lenders (other than Lending Stream) of £516 in April and £230 in early May, before he took out loan 5. Between taking out the loan in mid May and early June 2013, Mr W paid over £500 to other short term lenders. There are no credits from these lenders in this period so I think these loans were outstanding when Mr W took out the loan.

While the bank statements show some expenditure, for instance on insurance and phone contracts, most of Mr W's expenditure is in cash. There are cash withdrawals of more than £1,000 in April and more than £1,200 in early May 2013, before Mr W took out the fifth loan. There are also a number of gambling transactions. Mr W paid over £1,000 to online gambling businesses in early May 2013, before taking out the loan.

I think if Lending Stream had looked more closely at Mr W's circumstances it would have been aware of a possible gambling problem. I think it should have considered whether Mr W was borrowing to repay existing debts and to fund a gambling problem. I don't think further borrowing was affordable and sustainable.

Loans 6 to 18 (August 2013 to December 2014)

Mr W took out 13 loans between mid 2013 and the end of December 2014, sometimes taking out more than one loan in a month. I think, given his borrowing pattern, Lending Stream should have made similar checks to those for loan 5. There are different ways in which Lending Stream could have made these checks. I've looked at Mr W's bank statements during this period as this is the best evidence available to me about Mr W's financial circumstances when he took out the loans.

Mr W's bank statements show he continued to take out short term loans. For instance, he paid over £1,200 to short term lenders (other than Lending Stream) in August 2013 and over £1,600 in November 2013. He paid over £2,500 to other short term lenders in January 2014, over £800 in August 2014 and over £600 in December 2014. There are payments to gambling businesses throughout this period.

I think if Lending Stream had looked more closely at Mr W's circumstances it would have been aware of a possible gambling problem. I think it should have considered whether Mr W was borrowing to repay existing debts and to fund a gambling problem. I don't think further borrowing was affordable and sustainable.

Loans 19 to 21 (August and September 2015)

Mr W repaid loan 18 at the end of February 2015 and took out loan 19 in August 2015. He said his income was £1,600 and his expenditure was £698. Mr W took out two more loans in September 2015.

There'd been a break in Mr W's borrowing of almost six months. But I think, given Mr W's borrowing history, this isn't enough to make further checks unnecessary. I think Lending Stream should have continued to ask for information to gain a full understanding of Mr W's financial circumstances. There are different ways of doing this. I've looked at Mr W's bank statements as this is the best evidence available to me about Mr W's financial circumstances when he took out the loans.

Mr W's monthly income at this time was about £1,760 to £2,100. He made payments to gambling businesses of more than £2,200 in September 2015. In June 2015 Mr W made payments to gambling businesses of more than £1,500. While I don't have his bank statements for July and August 2015, I think it's likely they show a similar spending pattern.

I think if Lending Stream had looked more closely at Mr W's circumstances it would have been aware of a possible gambling problem. I think it should have considered whether Mr W was borrowing to repay existing debts and to fund a gambling problem. I don't think further borrowing was affordable and sustainable.

I don't think Lending Stream should have agreed to lend to Mr W after, and including, loan 5 (taken out in May 2013). So for each of those loans Lending Stream should:

- Refund all interest and charges that Mr W paid on the loans;*
- Pay interest of 8% simple a year on all refunds from the date of payment to the date of settlement*;*
- Remove any negative information about the loans from Mr W's credit file.*

**HM Revenue & Customs requires Lending Stream to take off tax from this interest. Lending Stream must give Mr W a certificate showing how much tax it's taken off if he asks for one.*

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Mr W accepted my provisional decision. Lending Stream didn't provide further comments or evidence. In the circumstances, I see no reason to change my findings from those set out in my provisional decision.

my final decision

My decision is that I uphold this complaint. I order Lending Stream LLC to:

- Refund all interest and charges that Mr W paid on loan 5 (taken out in May 2013) and the later loans;
- Pay interest of 8% simple a year on all refunds from the date of payment to the date of settlement*;
- Remove any negative information about the fifth and later loans from Mr W's credit file.

*HM Revenue & Customs requires Lending Stream to take off tax from this interest. Lending Stream must give Mr W 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 W to accept or reject my decision before 12 February 2018.

Ruth Stevenson
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