

## complaint

Mr D has complained about instatement loans he's taken with Lending Stream LLC (Lending Stream) between March and November 2016. Mr D says Lending Stream lent to him irresponsibly.

## background

A summary of Mr D's borrowing history can be found below;

loan number	loan amount	received date	actual repayment date
1	£200.00	04/03/2016	11/03/2016
2	£200.00	12/03/2016	31/03/2016
3	£600.00	04/04/2016	19/04/2016
4	£700.00	02/05/2016	30/06/2016
5	£840.00	01/07/2016	11/07/2016
6	£700.00	12/07/2016	29/07/2016
7	£670.00	29/07/2016	01/09/2016
8	£700.00	05/09/2016	30/11/2016
9	£250.00	10/11/2016	30/11/2016
10	£1,050.00	30/11/2016	outstanding balance

Mr D had some problems repaying his final loan, and at the time of the complaint Lending Stream says there is an outstanding balance.

Our adjudicator reviewed Mr D's complaint and he thought the checks carried out by Lending Stream before it agreed to loans 1 – 4 went far enough by taking into account the amount Mr D was committed to paying compared to his declared income and expenditure.

But, the adjudicator didn't think Lending Stream had carried out proportionate checks for any of the remaining loans. And had Lending Stream carried out sufficient checks before agreeing to these loans its likely it would've found out about his other short term loans and that he was spending significant amounts of money each month gambling. This didn't leave Mr D with any disposable income in which to repay these loans – so the adjudicator didn't think Lending Stream should've given them to him.

Lending Stream didn't agree with the adjudicator's recommendation, in response it made a number of points including;

- Lending Stream could see the loans were affordable based on Mr D's declared disposable income,
- credit checks were carried out before each loan was approved,
- Mr D was required to declare all of his loan repayments,
- Lending Stream wouldn't have asked to see Mr D's bank statements and
- Mr D has applied for further loans but these were declined because they didn't meet Lending Stream's lending criteria.

But in order to resolve the complaint Lending Stream made an offer to refund the interest and charges on loans 6 and 7. And it offered to waive all the interest and charges incurred on loan 10 and to only accept the remaining outstanding principal balance. Mr D didn't accept this offer.

The case has been passed to me for a decision but Mr D accepted the adjudicator's recommendation for loans 1 – 4. So I won't be looking at those loans in this decision. Equally, I won't be looking at loans 6, 7 or 10 because Lending Stream has already made an 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. And having done so, I'm partly upholding Mr D's complaint. I've explained my reasons why below.

All of the loans Lending Stream gave Mr D were instalment loans. So this means, the checks Lending Stream needed to carry out, had to show that Mr D could sustainably afford to repay the instalment as and when they became due – without it impacting on his financial position.

Lending Stream had to gather enough information to be able to make an informed decision as to whether it was going to lend. The guidance and rules don't set out what checks must be done before lending is approved – but this is a customer focused test. However, Lending Stream needed to take reasonable steps to make sure the loan was affordable for Mr D. And these checks needed to be proportionate to a number of things, such as the size of the loan and when the loan was due to be repaid.

But even if the checks Lending Stream carried out weren't proportionate, that alone doesn't mean Mr D's complaint should be upheld. I say this because, it's possible, that had further checks been carried out by Lending Stream, these would've shown that Mr D was able to afford the loans. So Lending Stream wouldn't have been wrong to lend him the money.

Lending Stream says each time it lent to Mr D it asked for details of his income and Mr D declared this to be between £1,520 and £2,250 throughout the time he borrowed from Lending Stream. And he also declared outgoings of between £386 and £814. Lending Stream also says that it carried out a credit check before each loan was approved - which it says didn't show it anything to prompt it to carry out further checks.

As I mentioned above, I won't be looking at the first four loans in the decision because Mr D has accepted the findings made by the adjudicator.

But by loan 5, Lending Stream should've had some concerns about the information Mr D was giving it – taking into account his borrowing history. Indeed, loan 5 was opened the day after Mr D had repaid loan 4 so given the frequent nature of the borrowing, this could've been a sign Mr D was having some financial difficulties.

So, I think, by now it would've been proportionate for Lending Stream to build a full picture of Mr D's circumstances, before agreeing to lend again – which would've included verifying the information he had provided.

I appreciate that Lending Stream has carried out a credit check before each loan. But I don't think that the income and expenditure information Lending Stream gathered would've been enough at this point to have given it the fullest possible picture of Mr D's financial position.

Equally, Lending Stream says that Mr D was required to declare all of his expenditure to it – including any outstanding short term credit commitments. But I've not seen a copy of any of the questions Lending Stream asked of Mr D. All I've seen in the paperwork that it sent us is '*monthly expenditure*' figure. So I can't be sure what questions Mr D was actually asked. And I don't think, this is enough, in this case, for me to say that Lending Stream had verified the information Mr D had provided.

Lending Stream could've verified Mr D's information a number of ways. It could've asked for evidence of his income and her outgoings – or as I've done here, it could've asked for his bank statements. The bank statements are the best indication of Mr D's ability to repay the loan at the time, so I don't think it's unreasonable to rely on them.

Based on what I've seen of Mr D's circumstances at the time of loan 5 was given, the figure he gave Lending Stream for his income was broadly correct. But had Lending Stream verified Mr D's information, it would've seen that he was spending significant amounts of money each month gambling. So with his living costs, as well as his commitments to other short term lenders which were outstanding at the time, Mr D didn't have enough disposable income to afford his loan payments. So, had Lending Stream carried out proportionate checks, I think it would've discovered this, and as a responsible lender, I don't think it would've agreed to lend.

For all remaining loans, I still think Lending Stream should've had a full picture of Mr D's financial circumstances. And having reviewed Mr D's bank statements, Mr D's financial position didn't improve after the fifth loan. He is still spending significant amounts of income on betting websites and in addition to this he is still borrowing from a number of other short term lenders. So if Lending Stream had carried out proportionate checks, it would've seen that Mr D wasn't in a position to repay any of his remaining loans sustainably. And as a responsible lender, it shouldn't have approved these loans.

### **what Lending Stream should do to put things right**

To put things right for Mr D, Lending Stream should:

- refund all the interest and charges paid by Mr D on loans 5 - 10,
- add interest at 8% per year simple on the above interest and charges from the date they were paid to the date of settlement †;
- Lending Stream can use the above refund to offset any outstanding principal on the final loan and
- remove any adverse information recorded on Mr D's credit file about these loans.

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

**my final decision**

For the reasons given above, I partly uphold Mr D's complaint.

Lending Stream LLC should put things right for Mr D as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 18 January 2018.

Robert Walker  
**ombudsman**