

The complaint

Mr S complains through a representative that Gain Credit LLC trading as Lending Stream ("Lending Stream") failed to conduct proportionate affordability checks before it lent to him.

What happened

A summary of Mr S's borrowing can be found in the table below.

loan number	loan amount	agreement date	repayment date	number of monthly instalments	largest repayment per loan
1	£170.00	18/01/2018	17/01/2019	6	£73.44
2	£460.00	15/03/2018	28/01/2019	6	£209.76

Mr S has had some problems repaying his loans and was only able to do so after agreeing a repayment plan with Lending Stream.

Following Mr S's complaint, Lending Stream explained why it wasn't going to uphold it and explained the checks it carried out showed Mr S could afford these loan repayments. Unhappy with this response, Mr S's representative referred the complaint to the Financial Ombudsman.

The case was then considered by an investigator who didn't uphold it. He said the information Lending Stream gathered showed the loans to be affordable and there wasn't any indication the loans would be unsustainable for him.

Mr S's representative didn't agree with the investigator's assessment saying.

- There had been adverse payment information reported the in the six months before the first loan was approved.
- In the three months before loan one, Mr S took three new loans, was in excess of their credit limit, had missed payments and had significant sums of debt.
- In February 2018 a bank removed one of Mr S's credit facilities.

As no agreement could be reached, the complaint has then been passed to for a decision.

What I've decided – and why

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

We've set out our general approach to complaints about this type of lending - including all the relevant rules, guidance and good industry practice - on our website. And I've used that to help me decide this complaint.

Lending Stream had to assess the lending to check if Mr S could afford to pay back the amounts he'd borrowed without undue difficulty. It needed to do this in a way which was

proportionate to the circumstances of the application. Lending Stream's checks could've taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mr S's income and expenditure.

With this in mind, I think in the early stages of a lending relationship, less thorough checks might have been proportionate. But certain factors might suggest Lending Stream should have done more to establish that any lending was sustainable for Mr S. These factors include:

- Mr S having a low income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- The amounts to be repaid being especially high (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- Mr S having a large number of loans and/or having these loans over a long period of time (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable);
- Mr S coming back for loans shortly after previous borrowing had been repaid (also suggestive of the borrowing becoming unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable for Mr S. The investigator didn't consider this applied in Mr S's complaint because only two loans were granted, and I agree.

Lending Stream was required to establish whether Mr S could *sustainably* repay the loans – not just whether he technically had enough money to make his repayments. Having enough money to make the repayments could of course be an indicator that Mr S was able to repay his loans sustainably. But it doesn't automatically follow that this is the case.

I've considered all the arguments, evidence and information provided in this context, and thought about what this means for Mr S's complaint.

As part of his application for all of these loans, Mr S declared a monthly income of £1,250. Lending Stream says it didn't feel it needed to make any adjustments to this income figure based on what it knew about Mr S. Lending Stream could only base its decision to lend on the information it received and gathered. For these loans, I think it was entirely proportionate for it to use the income figure provided by Mr S without the need to verify it.

Mr S also declared total monthly outgoings of £800 for loan one and £600 for loan two. For each loan this figure was broken down into "*normal expenses*" and "*credit specific expenses*". For example, for loan one Mr S's expenditure is broken down as £675 of normal expenses plus £125 of existing credit commitments.

Lending Stream says it looked at other information such as statistics that relate to the general population and it considered how much people typically spend related to their income. Having carried out this further check, it didn't make any adjustments to the figures declared by Mr S. Therefore, based on the information Mr S provided the largest repayment, which was £278.32, would have looked affordable. This would have occurred when both loans were running concurrently.

Before each loan was approved, Lending Stream carried out a credit search and it has provided the Financial Ombudsman with a summary spreadsheet of the results it received from the credit reference agency. I want to add that, although Lending Stream carried out a credit search, there isn't a regulatory requirement to do one, let alone one to a specific standard.

Lending Stream was also entitled to rely on the information it was given by the credit reference agency. So, I've looked at the results to see whether there was anything contained within it that would've either prompted Lending Stream to have carried out further checks or possibly have declined Mr S's application.

So, while Mr S's representatives have provided a copy of Mr S's credit file along with some further comments as to what this credit file showed in the months before these loans were approved, I've considered what the credit checks results showed Lending Stream because this is what it was entitled to rely on when carrying out its affordability assessment. And from my reading of the results, it doesn't seem that Lending Stream was informed about the difficulties that Mr S's representatives says he was experiencing at the time.

Having looked at the credit check results, in my view there wasn't anything that would've prompted Lending Stream to have carried out further checks before either loan was advanced.

Lending Stream knew Mr S had nine active accounts when both loans were approved. However, Lending Stream didn't know what sort of accounts they were for example credit cards, store cards or other payday / instalment loans.

Lending Stream was also told that there hadn't been any accounts entering default, and it had been eight months since the most recent of Mr S's account had entered delinquency – which I do think was too long ago for Lending Stream to have concluded that he was likely having current difficulties at the time of the loan applications.

Overall, given the value of the loans and what information Mr S provided, I do think Lending Stream firstly carried out proportionate checks and secondly, wasn't given any indication that Mr S was or was likely having financial difficulties. In those circumstances I think it was entirely fair and reasonable for Lending Stream to have advanced the loans.

Taking everything into account, I do not uphold Mr S's complaint.

My final decision

For the reasons I've outlined above, I do not uphold Mr S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 12 March 2024.

Robert Walker
Ombudsman