

The complaint

Miss M complains through a representative that Gain Credit LLC trading as Lending Stream (“Lending Stream”) gave her loans without carrying out sufficient affordability checks.

What happened

A summary of Miss M’s borrowing can be found in the table below;

loan number	loan amount	agreement date	repayment date	number of monthly repayments	Largest monthly repayment per loan
1	£200.00	31/03/2019	13/09/2019	6	£60.41
2	£850.00	15/10/2019	28/04/2020	6	£284.89
gap in lending					
3	£250.00	15/07/2021	29/07/2021	6	£75.59
4	£250.00	01/10/2021	18/10/2021	6	£78.29
5	£500.00	03/02/2022	10/05/2022	6	£152.89
6	£350.00	26/07/2022	20/01/2023	6	£113.97
7	£500.00	12/05/2023	01/11/2023	6	£178.23

Following Miss M’s complaint, Lending Stream wrote to her representative and explained why it wasn’t upholding it. Unhappy with this response, Miss M’s representative referred the complaint to the Financial Ombudsman.

The case was then considered by an investigator who upheld the complaint in full. He said that while the checks Lending Stream carried out appeared proportionate. The credit check results received by Lending Stream indicated that Miss M was likely having problems managing her existing credit commitments. So, any further borrowing was unsustainable.

Lending Stream partly agreed with the investigator’s outcome, agreeing to pay compensation for loans 2, 6 and 7. It didn’t say anything about loan 1, but in relation to loans 3, 4 and 5 it said;

- there was a break in lending between loan 3 being taken and loan 2 being repaid, as such Lending Stream considers this to be a new chain of lending
- the checks showed Miss M had sufficient disposable income to afford her repayments
- loans 3, 4 and 5 were for smaller sums than loan 2
- by loan 3 Miss M, according to the credit search data only had £142 a month of existing credit commitments, this was a significant reduction compared to the amount at loan 2 and shows her financial situation had improved
- there was one instance of Miss M having repayment problems during loan 5 but this was corrected and brought up to date within a week.

I issued a provisional decision explaining the reasons why I was intending to uphold Miss M's complaint in part and about loans 2, 6 and 7. Both parties were asked to provide any further comments as soon as possible, but in any event, no later than 11 April 2024.

Lending Stream didn't respond to the provisional decision. Miss M's representative let us know that Miss M agreed with the outcome.

A copy of the provisional findings follows this in smaller font and forms part of this final decision.

What I said in my provisional decision:

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 Miss M could afford to pay back the amounts she'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 Miss M'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 Miss M. These factors include:

- Miss M 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);*
- Miss M 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);*
- Miss M 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 Miss M. The investigator didn't consider this applied in Miss M's complaint and I would agree, given the number of loans, sums lent and the break in borrowing as well as the smaller gaps between some of the loans.

Lending Stream was required to establish whether Miss M could sustainably repay the loans – not just whether she technically had enough money to make her repayments. Having enough money to make the repayments could of course be an indicator that Miss M was able to repay her loans sustainably. But it doesn't automatically follow that this was the case.

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

Loan 1

As part of her application for loan 1, Miss M declared a monthly income of £2,100. Lending Stream says it didn't feel it needed to make any adjustments to this income figure and it had no reason to doubt the accuracy of the amount declared by Miss M.

Miss M also declared total monthly outgoings of £900. This figure was broken down as either “normal expenses” or “credit specific expenses”. For this loan Miss M declared all her outgoings were for normal expenses with zero going towards her credit commitments. Lending Stream also said it looked at other information such as statistics that relate to the general population and it considered how much people typically spend with their income.

Having carried out this further check, Lending Stream added an additional £83 per month to Miss M's declared monthly outgoings and then £309 towards her credit expenditure. Therefore, for its affordability assessment it believed Miss M's monthly outgoings came to £1,292.

Lending Stream also carried out a credit search and it has provided 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.

Having looked at the credit check results, in my view there is some concerning information. Lending Stream was on notice that Miss M had 9 active accounts owing in total around £9,000. In addition to this, it was told that she had defaulted on an account only three months before the loan was advanced – indicating that Miss M had fairly recently, significant repayment problems for a number of months.

There were also signs that the repayment problems which led to the default had continued as Lending Stream was told that the month before the credit check had been conducted another account had entered into arrears.

I can understand why the investigator upheld this loan. But I have had to weight this up against the fact this was for a first loan where the capital sum was modest and the monthly repayments even smaller. The checks also showed there was sufficient affordability. However, what I do think is fair to conclude is that Lending Stream didn't react to information that suggested Miss M may have been experiencing financial difficulties.

So, I do I think Lending Stream ought to have undertaken further checks to satisfy itself whether this was or wasn't the case. It could've gone about doing this several ways such as asking to see a full copy of her credit file, copy bills or asked to see a copy of her bank statements.

However, a copy of Miss M's bank statements, credit file or any other documentation hasn't been provided for this complaint so I can't say with any certainty that Lending Stream, by carrying out further checks, would've likely discovered this loan was either unaffordable or unsustainable for Miss M.

So, I've decided, based on the information I currently have to hand that I am not upholding Miss M's complaint about Lending Stream's decision to provide loan 1.

Loan 2

Lending Stream accepted in response to the investigator's assessment that this loan ought to not have been granted. This loan is therefore no longer in dispute, and I'll say no more about it. But I have, at the end of this decision, outlined what Lending Stream needs to do in order to put things right.

Loan 3

There is then a gap in lending of nearly 15 months after Miss M had repaid loan 2 and returned for loan 3. This gap is in my view long enough to have broken the lending chain and so although this was Miss M's third loan, Lending Stream could've treated Miss M as if she was a new customer.

Lending Stream carried out the same sort of checks that it had done for loan 1. This time Miss M declared her income to be £2,286 per month. As before her outgoings were split between living costs and credit commitments – Miss M declared these came to £1,075 per month.

Having reviewed these figures against the metrics mentioned above Lending Stream didn't make any adjustments. As this was a first loan of a new chain it was entirely fair and appropriate for Lending Stream to have relied on the information it was given to suggest Miss M could afford the loan.

A credit search was carried out and there wasn't anything that I could see that would've given Lending Stream cause for concern. It knew Miss M had 11 active accounts and while there were some defaults, the most recent one had been recorded 20 months before the loan had been advanced.

Thinking about the type of loans Lending Stream provides as well as the marketplace that it operates it, I don't think those historic defaults would've caused Lending Stream any concern especially as there wasn't any recent adverse payment information. It would've been reasonable for it to have concluded that around two years ago Miss M had some difficulties, but whatever difficulties they were had since passed.

Lending Stream was also told that Miss M's monthly contracted payments to her existing credit providers were around £142 – which is less than the £200 she declared for this loan. This wouldn't have alerted Lending Stream to any financial difficulties Miss M may have been having.

Although there does appear to be some inconsistencies with the information provided by Lending Stream as there is other data contained within the credit check results that shows perhaps there had been some defaults within the year preceding these loans. But in this case, I think it's more likely than not that the age of most recent default is the correct data point to use.

This was the first loan in a new lending chain, and I'm satisfied that Lending Stream conducted proportionate affordability checks which demonstrated she ought to be able to afford her repayments. It therefore follows that I am intending to not uphold Miss M's complaint about this loan.

Loans 4 and 5

The same checks that Lending Stream carried out for the previous loans were again carried out here. Between the repayment of each loan there are some smaller gaps, while not enough to reset the lending relationship they are large enough to have at least led Lending Stream to conclude that perhaps Miss M wasn't reliant on this form of credit.

Miss M's income was declared as being £2,235 for loan 4 and £2,500 per month for loan 5. Lending Stream made no adjustments to her income, which given these were lending decisions taken early on in a new lending chain then I think it was reasonable.

Monthly outgoings have been recorded as £750 for loan 4 and £775 for loan 5. Lending Stream made a small adjustment to each declared figure of £25. Leading to it using monthly outgoings figures of £775 and £800 per month. Based solely on the income and expenditure information the loans appeared affordable.

Lending Stream also carried out similar credit searches, which provided the same sort of results as previous loans. For loan 4, it was told that Miss M had 11 active accounts which were costing her around £65 per month to service. This is such a small amount that I consider it reasonable that Lending Stream would've thought that loan 4 was affordable. There also hadn't been any new defaults recorded.

I am therefore intending to conclude that Lending Stream made a fair and reasonable

lending decision to advance loan 4 to Miss M.

However, for loan 5, while there hadn't been any more defaulted accounts, I do have some concerns about what Lending Stream did with the information that it had to hand.

The credit check results indicated Miss M's commitments were greater than what she declared to Lending Stream. For loan 5 Miss M had declared monthly credit commitments of £125 but according to the credit search results her commitments were around £433 per month.

Lending Stream doesn't appear to have reacted to the information that it was being given, at a minimum it ought to have factored the above £433 into the monthly living costs that Miss M had declared – which would've taken her monthly outgoings to £1,233 – so superficially Lending Stream may have thought that loan was affordable – even with the significantly greater credit commitments.

However, this was Miss H's largest loan in this chain of lending, the number of active credit facilities had increased since loan 4, and her monthly repayments to Lending Stream had now almost doubled. In those circumstances I do think Lending Stream needed to take additional steps to make sure loan 5 was both affordable and sustainable for Miss M.

These factors, ought to have led Lending Stream to ask further questions of Miss M to establish whether the loan was affordable and sustainable for her. Lending Stream didn't do this – so I don't think its checks went far enough.

Lending Stream could've gone about verifying the information a number of ways. It could've asked to see a copy of his full credit report, copy wage slips / bills and / or it could've copy bank statements.

Neither Miss M nor her representatives have provided copy bank statements or any other documentation from around the time this loan was approved so I can't say what Lending Stream may have discovered if it had made better checks.

It therefore follows based on the information that I have to hand I can't uphold Miss M's complaint about loan 5.

Loans 6 and 7

Lending Stream has already accepted something went wrong here when it agreed with the investigator's findings. I therefore say no more about them, but as with loan 2, I've outlined below the steps Lending Stream needs to take in order to put things right for Miss M.

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.

As neither party has provided any new submissions for consideration and Miss M has accepted the findings that were outlined in the provisional decision. I see no reason to depart from the findings I previously made.

I still think Mr Lender ought to not have provided loans 2, 6 and 7 to Miss M and I've set out below what it needs to do in order to put things right for her.

Putting things right

In deciding what redress Lending Stream should fairly pay in this case I've thought about what might have happened had it not lent loans 2, 6 and 7 as I'm satisfied it ought to have.

Clearly there are a great many possible, and all hypothetical, answers to that question. For example, having been declined this lending Miss M may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between them and this particular lender which they may not have had with others. If this wasn't a viable option, they may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, they may have decided to approach a third-party lender with the same application, or indeed a different application (i.e. for more or less borrowing). But even if they had done that, the information that would have been available to such a lender and how they would (or ought to have) treated an application which may or may not have been the same is impossible to now accurately reconstruct. From what I've seen in this case, I certainly don't think I can fairly conclude there was a real and substantial chance that a new lender would have been able to lend to Miss M in a compliant way at this time.

Having thought about all of these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Miss M would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce Lending Stream's liability in this case for what I'm satisfied it has done wrong and should put right.

Lending Stream shouldn't have given Miss M loans 2, 6 and 7. So, I currently intend to say that it needs to do the following.

- A. Lending Stream should add together the total of the repayments made by Miss M towards interest, fees and charges on these loans.
- B. To this it should calculate 8% simple interest* on the individual payments made by Miss M which were considered as part of "A", calculated from the date Miss M originally made the payments, to the date the complaint is settled.
- C. It should pay Miss M the total of "A" plus "B".
- D. Lending Stream should remove any adverse information it recorded on Miss M's credit file in relation to loans 2, 6 and 7.

*HM Revenue & Customs requires you to deduct tax from this interest. You should give Miss M a certificate showing how much tax it has deducted, if she asks for one.

My final decision

For the reasons I've explained above and in the provisional decision, I'm upholding Miss M's complaint in part.

Gain Credit LLC trading as Lending Stream should put things right for Miss M as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 15 May 2024.

Robert Walker
Ombudsman