

## **The complaint**

Mrs P complains that Gain Credit LLC trading as Lending Stream ("Lending Stream") allowed her to take out a loan without checking whether she could afford to repay it.

## **What happened**

Mrs P was advanced one loan of £550 on 1 July 2022. Mrs P was due to make five monthly repayments of £179.30 followed by a final payment of £178.51. The loan was repaid on 23 December 2022.

Following Mrs P's complaint, Lending Stream wrote to her to explain why it wasn't going to uphold her complaint. This was because the checks it carried out showed it that Mrs P could afford the loan repayments. Unhappy with this response, Mrs P referred the complaint to the Financial Ombudsman.

The case was then considered by an investigator. She firstly explained why the checks were proportionate, which showed Lending Stream the loan was affordable. She said that Lending Stream's loan didn't breach the cost cap and it charged Mrs P the interest it said it would do.

Mrs P didn't agree with the investigator's assessment saying the income recorded by Lending Stream wasn't accurate. At best, Mrs P says she could've earned up to £2,000 per month. So, Mrs P's disposable income wasn't as high as Lending Stream believed and a credit search would've shown a poor credit score, missed payments and a County Court Judgement.

As no agreement could be reached, the complaint has been passed to me 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 Mrs P could afford to pay back the amount 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 Mrs P'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 Mrs P. These factors include:

- Mrs P 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);
- Mrs P 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);
- Mrs P 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 Mrs P. The investigator didn't consider this applied in Mrs P's complaint because only one loan was granted and I agree.

Lending Stream was required to establish whether Mrs P could *sustainably* repay the loan – 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 Mrs P was able to repay her loan 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 Mrs P's complaint.

As part of her application for the loan, Mrs P declared a monthly income of £4,600 from full time work for a healthcare trust. Lending Stream says it didn't feel it needed to make any adjustments to this income figure based on what it knew about Mrs P.

Mrs P in her complaint form and in response to the investigation's assessment has said that the amount of income she declared was incorrect and at best she could earn close to £2,000 per month. But this wasn't reflected in the information Lending Stream was provided.

I appreciate Mrs P says her job meant her income was effectively capped and she couldn't earn as much as has been noted by Lending Stream. But Lending Stream only knew her employer and not the exact job title. I also don't think, given what Lending Stream knew, that there was enough to make it believe there was a discrepancy or that what Mrs P had declared wasn't accurate. Lending Stream could only base its decision to lend on the information it received and gathered. For a first loan, I think it was entirely proportionate for it to use the income figure provided by Mrs P without the need to verify it.

Mrs P also declared monthly outgoings of £467. This was broken down as £226 for "*normal expenses*" with £201 being attributed to 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 with their income. Having carried out this further check, Lending Stream didn't make any adjustments to the expenditure figures provided by Mrs P. Therefore, the loan looked affordable.

Before the loan was approved, Lending Stream also 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 Mrs P's application.

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 Mrs P had 13 active accounts leading to an estimated monthly repayment to service those accounts of £563 per month. Now, these payments are larger than the commitments that Mrs P declared to Lending Stream as part of her application. So really Lending Stream ought to have used the figures it was given from the credit reference agency when thinking about Mrs P's credit commitments. It didn't do this, but had Lending Stream what I'd have expected to have done then I think it would've come to the same conclusion anyway. That Mrs P had sufficient disposable income to potentially afford the loan repayment.

Lending Stream was told that Mrs P had defaulted on one account between 13 and 36 months before the loan was approved. This was the only default recorded – which was more than a year before her application. And knowing that, I don't think Lending Stream would've been overly concerned given the timescales involved. Overall, there wasn't any signs from the credit check to indicate Mrs P was in financial difficulties, or to have prompted Lending Stream to have carried out further checks.

As this was the first and only loan, I think it was reasonable for Lending Stream to have relied on the information Mrs P provided to it – which showed she had sufficient disposable income to afford the repayments. There also wasn't anything to suggest that Mrs P was having either current financial difficulties or to indicate the loan repayments would be unsustainable for her. This has led me to conclude that it was reasonable for Lending Stream to have advanced the loan.

Finally, the investigator addressed concerns that Mrs P had around the interest that she was charged. Having looked at the credit agreement, this set out how much each payment would be and how each payment would be split between the capital she borrowed and the interest due. I've reviewed the statement of account and Lending Stream has collected the amount of money it said it would do under the terms of the agreement, so I can't say an error has been made.

Since January 2015, there has been a cost cap which was implemented by the industry regulator. Which in summary said a lender can't collect more than 100% of the amount borrowed, including interest fees and charges. In this case, that would be a maximum repayment to Lending Stream of £1,100. Having looked at the credit agreement and the statement of account, Lending Stream collected £1,075, which is under the cost cap and so Lending Stream doesn't need to take any further action.

Taking everything into account, I do not uphold Mrs P's complaint.

### **My final decision**

For the reasons I've outlined above, I do not uphold Mrs P's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 10 January 2024.

Robert Walker

**Ombudsman**