

The complaint

Miss B complains that Gain Credit LLC trading as Lending Stream (“Lending Stream”) provided her with loans she couldn’t afford to repay.

What happened

A summary of Miss B’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	£300.00	08/06/2022	outstanding	6	£95.44
2	£520.00	04/08/2022	outstanding	6	£170.70
3	£370.00	08/08/2022	outstanding	6	£118.28

The ‘largest repayment column’ is the cost per loan, but where loans overlapped the cost was greater. For example, when loans 1 – 3 were running concurrently, Miss B’s contractual repayment was £384.42 per month.

Miss B has had some problems repaying her loans and all of the loans have since been terminated. As of March 2023, a balance remained due of £1,212.18.

Following Miss B’s complaint, Lending Stream explained why it wasn’t going to uphold her complaint. Unhappy with this response, Miss B referred the complaint to the Financial Ombudsman.

The case was then considered by an investigator. In her latest assessment, she explained why the checks were proportionate, which showed Lending Stream loans 1 and 2 were affordable.

However, by loan 3 the investigator thought Lending Stream ought to have made further enquiries with Miss B around any outstanding payday loans she may have had. The investigator reviewed Miss B’s bank statements and could see one active payday loan and so she thought loan 3 was still affordable. Given this, the investigator didn’t uphold Miss B’s complaint.

Miss B didn’t agree with the investigator’s assessment and requested an ombudsman’s decision. 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 Miss B 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 B'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 B. These factors include:

- Miss B 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 B 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 B 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 B. The investigator didn't consider this applied in Miss B's complaint because only three loans were granted, and I agree.

Lending Stream was required to establish whether Miss B 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 B was able to repay her 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 Miss B's complaint.

As part of her applications, Miss B declared a monthly income of £2,197 from full time work for each loan. Lending Stream says it didn't feel it needed to make any adjustments to this income figure based on what it knew about Miss B. Lending Stream could only base its decision to lend on the information it received and gathered. For the first three loans, I think it was entirely proportionate for it to use the income figure provided by Miss B without the need to verify it.

Miss B also declared monthly outgoings of £925 for loan 1, £1,472 for loan 2 and £1,376 for loan 3. For each loan this figure was broke down into "*normal expenses*" and "*credit specific expenses*". For example, for loan 1 Miss B declared £675 of normal expenses and £250 of existing credit commitments.

Lending Stream says it looks 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, the only adjustment Lending Stream made was to the normal living expenses for loan 1 – when it increased these by a further £340 per month. But even with the adjustment Miss B still had sufficient disposable income to afford loan 1 and the rest of her loans.

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 Miss B'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 Miss B's existing monthly credit commitments were £375 per month at loan 1 and £471 per month for loans 2 and 3. Finally, Lending Stream knew Miss B hadn't defaulted on any accounts within the last three years.

The existing credit commitment payments Lending Stream were told about were larger than the commitments that Miss B declared to it as part of her applications. So Lending Stream ought to have used the figures it was given from the credit reference agency when thinking about Miss B's credit commitments. It didn't do this but had Lending Stream factored in the payments from the credit reference agency, I think it would've come to the same conclusion anyway. This would have been that Miss B had sufficient disposable income to potentially afford these loans.

Overall, there wasn't any signs from the credit check to indicate Miss B was in financial difficulties, or to have prompted Lending Stream to carry out further checks.

As these were the first loans that she had taken out with Lending Stream, I think it was reasonable for it to have relied on the information Miss B provided to it – which showed she had sufficient disposable income to afford the repayments.

Finally, the investigator felt, given the significant increase in the monthly commitment Miss B had to Lending Stream that perhaps by the final loan it ought to have made some other enquires with her about her existing short-term (payday) loans.

Like the investigator, I've reviewed Miss B's bank statements from around the time the final loan was granted and although I can't see any outstanding payday loans I can see two payments, one to a high cost longer term loan costing Miss B around £70 per month and a flexibility repayment facility costing around the same. In my view, further checks into Miss B's outstanding payday loans wouldn't have impacted Lending Stream's decision to advance loan 3.

Taking everything into account, I do not uphold Miss B's complaint. An outstanding balance likely remains due, and I would remind Lending Stream of its regulatory obligation to treat Miss B fairly and with forbearance – if necessary.

My final decision

For the reasons I've outlined above, I do not uphold Miss B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 9 February 2024.

Robert Walker
Ombudsman