

The complaint

Mrs C, through her representative, complains that Gain Credit LLC, trading as Lending Stream, lent to her irresponsibly.

What happened

Mrs C took nine loans with Lending Stream from 12 December 2019 onwards. Here is a brief loan table. The grey colouring for loans 7 to 9 show that these are the ones which Lending Stream conceded in its final response letter. More detail is given in the main part of the decision.

| Loan | Borrowed Date | Amount | Details on monthly repayments | Interest paid | Closed Date |
|---------------------|---------------|--------|-------------------------------|---------------|-------------|
| 1 | 12-12-2019 | £300 | 5 x £91.46 1 x £90.33 | £31.20 | 24-12-2019 |
| 2 | 07-02-2020 | £170 | 5 x £51.82 1 x £51.46 | £21.76 | 22-02-2020 |
| 3 | 25-02-2020 | £250 | 5 x £82.65 1 x £81.65 | £113.80 | 25-04-2020 |
| Over two months gap | | | | | |
| 4 | 08-07-2020 | £130 | 5 x £39.81 1 x £38.67 | £18.72 | 25-07-2020 |
| 5 | 06-08-2020 | £200 | 5 x £63.45 1 x £62.44 | £14.56 | 22-08-2020 |
| 6 | 08-08-2020 | £150 | 5 x £45 1 x £44.68 | £18 | 22-08-2020 |
| 7 | 01-09-2020 | £250 | 5 x £77.61 1 x £76.55 | - | 24-09-2020 |
| 8 | 05-10-2020 | £150 | 5 x £45 1 x £44.68 | - | 23-10-2020 |
| 9 | 04-12-2020 | £140 | 5 x £40.84 1 x £39.12 | - | 28-12-2020 |

Mrs C, through her representative, complained to it on 8 September 2022 and it responded with its final response letter on 27 September 2022. Lending Stream did not think it needed to put things right for Mrs C for loans 1 to 6 but it did think that it ought to refund her the interest and charges on loans 7 to 9. So, it made this offer of the refund (plus interest less tax) together with the removal of loans 7 to 9 from Mrs C's credit file.

Mrs C's representative referred her complaint to the Financial Ombudsman Service on 27 September 2022.

One of our adjudicators looked at the complaint and thought that the offer for loans 7 to 9 was fair and so did not review those loans. She reviewed loans 1 to 6. She thought that

Lending Stream had not done anything wrong for loans 1 to 4. So, she did not uphold that part of the complaint.

Our adjudicator thought that for loans 5 and 6 it should have taken steps to build a more thorough picture of Mrs C's financial situation before lending those two loans to her. As Mrs C's representative had already sent to us the bank account statements which covered that period of the lending – July and August 2020 – our adjudicator reviewed them. She could not see anything which should have prevented Lending Stream from lending to Mrs C. And our adjudicator also said:

'I don't think that the number of loans [Mrs C] took, the amounts they were for or the period of time she was borrowing meant her loan history, on its own, should've shown Lending Stream she might've been experiencing underlying financial difficulty.'

So that part of the complaint was not upheld either.

Mrs C's representative did not give any reasons – other than it disagreed - but it requested that an ombudsman review the complaint.

The unresolved complaint was passed to me to decide.

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.

Lending Stream had to assess the lending to check if Mrs C 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. 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 C'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 C. These factors include:

- Mrs C 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 C 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 C 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 C .

Lending Stream was required to establish whether Mrs C 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 Mrs C was able to repay her loans sustainably. But it doesn't automatically follow that this is the case.

Industry regulations say that payments are sustainable if they are made without undue difficulties and, made on time, while meeting other reasonable commitments and without having to borrow to make them. If a lender realises, or ought reasonably to have realised, that a borrower won't be able to make their repayments without borrowing further, then it follows that it should conclude those repayments are unsustainable.

I've considered all the arguments, evidence and information provided in this context, and thought about what this means for Mrs C's complaint. I have not reviewed loans 7 to 9 in detail as Lending Stream has conceded in relation to these three loans.

Information from the Lending Stream records shows that Mrs C had declared an income of between £1,300 and £1,600 each month for the nine loan applications. The expenditure Mrs C had declared for each application was always much less than the income figure and so the disposable income ranged from £425 to £1,300 each month. So it would have appeared that Mrs C had enough money to afford the repayments which ranged from £39 to £91 each month.

In addition, as the lending relationship progressed then Lending Stream was able to factor in Mrs C's repayment history and I have seen from the loan agreements and the Statements of Account for each loan that all of them were repaid much earlier than the original schedule. The six month instalment repayments were often repaid in one or two months. And early repayments would have been noted by Lending Stream as being a positive factor for any future creditworthiness assessments.

Lending Stream carried out a credit search before each loan was approved. We have had a summary of the results which are not entirely satisfactory because they are so brief, but it does appear that Lending Stream knew Mrs C had some adverse entries on that credit file – such as a default for the first few loans (which likely would have been the same default registering for each loan application as they were close together), and some delinquent accounts.

So I agree with our adjudicator that I think that Lending Stream carried out proportionate checks for loans 1 to 4, but at loan 5, when Mrs C was applying for the fifth loan in nine months then it ought to have made some further enquiries.

One way to have done that would have been to ask for copy payslips, check on her expenditure and discover why it was she needed the loans. Another and convenient method would be to have reviewed copy bank account statements and I don't think Lending Stream did that.

Mrs C has sent to us the copy bank account statements and from loan 5 and I have reviewed the month leading up to those applications through to early August 2020 and thought about what those statements would have revealed to Lending Stream if it had taken a closer look at Mrs C's finances in 2020.

I have seen that Mrs C had a credit facility which allowed her to draw on additional funds. And I have seen that Mrs C received child benefit payments. I've seen that Mrs C also

transferred money into and out from her savings accounts and had some credits into the account from a credit union.

But overall her account seems well managed and rarely went into overdraft and apart from Lending Stream and the credit facility (and credit union) she had I cannot see any other transactions such as payments to other high cost lenders which would have led Lending Stream to decide Mrs C was unable to afford the loans or to have refused the loans.

So, I do not uphold Mrs C's complaint about loans 1 to 6.

Loans 7 to 9

Lending Stream has confirmed that the offer made in its FRL for loans 7 to 9 plus the removal of the loans from Mrs C's credit file is still open to her.

If Lending Stream has not already refunded Mrs C in line with that offer then it must do so. If it has already refunded Mrs C then I remind it that in the FRL Lending Stream said that it would remove loans 7 to 9 from Mrs C's credit file. So that needs to be done too if not already done.

My final decision

My final decision is that I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 7 August 2023.

Rachael Williams
Ombudsman