

The complaint

Ms W, through her representative, complains that Gain Credit LLC, trading as Lending Stream, lent to her irresponsibly five times.

What happened

Using information from Lending Stream, here is a loan table of the five loans approved for Ms W.

Loan	Date approved	Amount	Repay schedule	Amount repaid	Closed	Due to close
1	22 May 2021	£100	5 x £35.47 1 x £22.65	£154.33	29 July 2021	30 Nov 2021
2	24 July 2021	£400	5 x £137.29 1 x £113.55	£646.74	21 December 2021	27 January 2022
3	2 August 2021	£560	5 x £181.40 1 x £180.54	£949.76	21 December 2021	27 January 2022
4	20 January 2022	£100	5 x £34.66 1 x £26.70	£129.60	25 February 2022	27 July 2022
5	16 February 2022	£400	5 x £141.54 1 x £92.30	£432	25 February 2022	26 August 2022

Ms W, through her representative, complained to Lending Stream who responded with its final response letter (FRL) on 27 September 2022 in which it upheld her complaint in relation to loan 5. The calculated refund was £33.20 and it said that as part of the offer it would remove adverse information from the credit file for Ms W in relation to loan 5.

Ms W's representative referred the complaint to the Financial Ombudsman Service the day after the FRL was issued which was on 28 September 2022. Later we have discovered from Lending Stream that on 15 November 2022 Ms W accepted that FRL offer and activated the electronic link in that FRL to credit her account with the £33.20. We discovered this in April 2023. I plan to come back to this in the main part of the decision.

One of our adjudicators looked at the complaint and did not consider loan 5 as she had seen the offer to put things right for loan 5 from Lending Stream in the FRL and could see it agreed with the complaint for loan 5.

Our adjudicator considered the other four loans and did not think that Lending Stream had done anything wrong. So, she did not uphold the complaint. Ms W's representative responded to say it disagreed and wanted an ombudsman to review it. Lending Stream told us that Ms W had accepted the offer in its FRL for loan 5 in November 2022 but had failed to tell us until April 2023. Ms W's representative had also failed to tell us.

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 Ms W 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 considered a number of different things, such as how much was being lent, the size of the repayments, and Ms W'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 Ms W. These factors include:

- Ms W 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);
- Ms W 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);
- Ms W 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 Ms W.

Lending Stream was required to establish whether Ms W 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 Ms W 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 Ms W's complaint.

Potential dismissal of the complaint

As we have found out that Ms W has accepted the offer in the FRL then I considered dismissal of the whole complaint on the basis that Ms W had accepted the offer made in that FRL. However, the time frame is such that we did not know of it until recently and Ms W accepted the offer in November 2022 which was after Lending Stream had sent to us its complete file for investigation.

And having looked at the merits it's clear that Loans 1 to 4 were not irresponsibly lent.

So, the expeditious way forward at this stage of the complaint history was to review the merits and issue a decision – which is what follows.

Irresponsible lending

In view of the FRL and Ms W's acceptance of the loan 5 offer I have not reviewed loan 5. Ms W applied for loans having declared a good income ranging from £1,600 a month for loan 1 to £2,300 a month for loan 4. Ms W declared expenditure figures of £967 for loan 1 through to £800 for loan 4.

I've taken time to list the individual monthly repayments as scheduled for each loan in the table at the start of this decision. And from that I think it was clear that Lending Stream could see Ms W was able to afford the loan repayments.

As the lending relationship developed then Lending Stream would have factored into its creditworthiness assessment the early repayment history. So, by the time Ms W was applying for loans 3 and 4 it would have recognised that she had a good repayment history.

Lending Stream carried out a credit search. I have reviewed the results of that search done for each loan. The record for loans 1 to 3 did not reveal anything that would have led Lending Stream to decline the applications or consider that Ms W was unable to afford the repayments.

I have seen that for the later loans, the credit record had deteriorated and that may well have been the reason for Lending Stream deciding that it would make an offer to Ms W for loan 5. But as loan 4 was only for £100, and considering the good repayment record plus the low value for loan 4 then I do not think it likely that the first indication of a lesser credit record would have led Lending Stream to decline the application for loan 4. In the circumstances I do not uphold the complaint.

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 Ms W to accept or reject my decision before 8 August 2023.

Rachael Williams
Ombudsman