

## **complaint**

Mr P complains Lending Stream LLC has recorded inaccurate information on his credit file.

## **background**

The background to this complaint, and my provisional findings on it, can be found in my provisional decision which is attached to and forms a part of this final decision.

Mr P didn't reply to the provisional decision by the deadline I set. Lending Stream said it disagreed with me. It repeated its version of events regarding Mr P's loans and its contact with a debt management company ("B"). It noted Mr P hadn't made any payments to his accounts despite it sending him various reminders. It also suggested there wasn't enough evidence that Mr P *wasn't* in a debt management plan ("DMP"). It concluded that its reporting to Mr P's credit file had been "genuine and appropriate."

The case has been returned to me for a final decision.

## **my findings**

I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've taken into account the law along with any relevant regulatory guidance and good industry practice at the time.

Lending Stream's response doesn't appear to address the points I made in my provisional decision. It hasn't added anything new and has repeated things it's said previously which I believe I've already addressed in my provisional decision.

In light of this I see no reason to depart from the findings I made in that provisional decision and therefore I will be upholding Mr P's complaint.

## **putting things right**

Lending Stream incorrectly recorded with the credit reference agencies that Mr P's loans were included in a DMP, when it should have recorded defaults against both loans in June or July 2011. As these defaults would by now have expired Lending Stream should instead remove any records showing the loans were included in a DMP. Lending Stream also provided a poor standard of service when Mr P raised his concerns, causing him a degree of frustration for which I think he should be compensated.

So, I direct Lending Stream to:

- Remove any DMP markers or other information it has recorded with the credit reference agencies, in connection with Mr P's loans. If it is unable to do this then it must instead remove the record of the loans entirely from Mr P's credit file.
- Pay Mr P £100 compensation.

**my final decision**

For the reasons given above and in my attached provisional decision, I uphold Mr P's complaint and direct Lending Stream LLC to take the actions outlined in the "putting things right" section of this final decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 8 February 2018.

Will Culley  
**ombudsman**

## **COPY OF PROVISIONAL DECISION**

### **complaint**

Mr P complains Lending Stream LLC has recorded inaccurate information on his credit file.

### **background**

Mr P took out a loan with Lending Stream in November 2010 for £415. He then took out another loan in January 2011 for a further £95. Mr P had some problems paying his loans and engaged a debt management company which I'll call "B" to deal with his creditors on his behalf. B contacted Lending Stream on 23 June 2011 and offered to pay £5 per month on each of Mr P's loans.

Mr P has said he cancelled his debt management plan ("DMP") with B before it had been finalised and no payments were made under the plan. But he says that on his credit file Lending Stream has recorded him as being in a DMP from 1 November 2012 to 1 November 2014. He said this was wrong because he'd never officially been in the DMP.

Earlier this year Mr P raised his concerns with Lending Stream, which insisted it had been correct to record Mr P as being in a DMP as it had received correspondence from B to say that he was. It noted it had not received any other communication to say the plan had been cancelled. I'm told B attempted to contact Lending Stream but it was informed it needed to speak to either of two companies it had sold Mr P's loan debts to.

Mr P then brought his case to this service, where it was considered by an adjudicator. He initially concluded that Lending Stream was not unreasonable to request evidence Mr P had not gone ahead with his DMP, but that it had provided poor customer service and should pay Mr P £100 compensation for this. Mr P then produced an email from B which indicated it had spoken to Lending Stream recently about the matter. Our adjudicator changed his assessment to say Lending Stream should now also remove the record of the DMP from Mr P's credit file.

Lending Stream didn't agree with the adjudicator so the case has been passed to me to decide.

### **my provisional findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've taken into account the law along with any relevant regulatory guidance and good industry practice at the time.

Having done so, I don't think it really matters whether Mr P was in a DMP or not. The important point is that he didn't make payments towards his loans. I'll explain why I think this is important.

The relevant guidance in place at the time for the recording of information with credit reference agencies, was issued by the Information Commissioner's Office in 2007. This set out some general principles which mirrored the Data Protection Act 1998, including that records should be "*accurate and...kept up to date*".

The guidance had specific things to say regarding DMPs. It said that if such a plan was put in place then loans which were included in the DMP should be marked as such with the credit reference agencies. However, it went on to say that where payments were not made as agreed under a DMP, then any DMP marker should be removed and defaults should be recorded on the relevant accounts if the arrears were equivalent to three monthly payments under the original loan terms.

About defaults more generally (i.e. when there was no DMP involved), the guidance stated that defaults should not routinely be recorded as being in default until there were at least three consecutive months of arrears. However, it also said defaults *should* be recorded by the time an account was six months in arrears.

Disappointingly, Lending Stream hasn't supplied much of a repayment history or schedule for either loan, so I can't know for certain when Mr P stopped repaying his loans. However, based on the limited information available I think Mr P was last up to date with his first loan in December 2010. This is because Lending Stream agreed to give him a second loan early in January 2011 and I don't think Lending Stream would have given him this if he'd been in arrears on his first loan.

Mr P didn't make any repayments towards his second loan, and I think it's unlikely he made any further repayments on his first loan either, after he took out his second loan. This means Mr P was accruing consecutive months of arrears on his loans from January 2011.

If we apply the guidance to this set of circumstances, then by the time B contacted Lending Stream Mr P was six months in arrears on his loans and defaults should have been recorded, if not already then certainly as soon as payments were missed under the DMP (if indeed Mr P had one).

So in my view, Lending Stream should have recorded defaults on Mr P's loans in June or July 2011. This means the information Lending Stream has recorded is incorrect. But I don't think this means Lending Stream should retrospectively record defaults on the accounts. Defaults remain on a person's credit file for six years, so had Lending Stream correctly recorded these defaults, they would have disappeared from Mr P's credit file by June or July 2017.

I think the fairest thing for Lending Stream to do in the circumstances would be to remove any evidence from Mr P's credit file that his loans were included in a DMP. If it is unable to do so then it should remove the loans entirely from Mr P's credit file.

#### *customer service*

I've reviewed the correspondence between Mr P and Lending Stream. I do think the service provided by Lending Stream was very poor.

Although Lending Stream did initially explain why it had recorded a DMP, it became unhelpful when Mr P queried things further. It incorrectly told him on several occasions that he should contact the businesses it had sold Mr P's loans to, and some of its responses either didn't appear to engage with what Mr P had said or didn't take account of recent correspondence. I can understand why Mr P found this frustrating and I agree with the adjudicator's recommendation that Lending Stream pay £100 compensation in respect of this.

#### **putting things right**

Lending Stream has incorrectly recorded with the credit reference agencies that Mr P's loans were included in a DMP, when it should have recorded defaults against both loans in June or July 2011. As these defaults would by now have expired Lending Stream should instead remove any records showing the loans were included in a DMP. Lending Stream also provided a poor standard of service when Mr P raised his concerns, causing him a degree of frustration for which I think he should be compensated.

So, I intend to direct Lending Stream to:

- Remove any DMP markers or other information it has recorded with the credit reference agencies, in connection with Mr P's loans. If it is unable to do this then it must instead remove the record of the loans entirely from Mr P's credit file.
- Pay Mr P £100 compensation.

**my provisional decision**

I intend to uphold Mr P's complaint and direct Lending Stream LLC to take the actions set out above.

I now invite both parties to the complaint to make any further submissions by 27 December 2017.

Will Culley  
**ombudsman**