

complaint

Mr P complains that Lending Stream LLC gave him unaffordable instalment loans. He wants a refund of the interest he paid, with interest, and for the loans to be removed from his credit file.

background

Mr P had 11 instalment loans from Lending Stream between 2013 and 2015. He thought that if Lending Stream had made proper checks it would have seen that he was in debt and not lent to him. Lending Stream said it had completed proportionate checks, but it offered to refund interest and charges on the second loan Mr P took out. Mr P declined this offer.

Our investigator recommended that the complaint should be upheld. He thought Lending Stream had made sufficient affordability checks on Mr P's first loan. But he thought it should have made further checks from the second loan onwards. If it had done so, it would have seen that Mr P was borrowing increasing amounts to support his gambling habit. He thought it then wouldn't have made him further loans as that would have been irresponsible. So he thought it should refund interest and charges from the second loan onwards, with interest, and remove related adverse information from Mr P's credit file.

Lending Stream replied that it was for Mr P to provide accurate information about his income and outgoings. It said it wasn't required to make further checks if the loans looked affordable.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr P had 11 instalment loans from Lending Stream which have now been repaid. He seems to have struggled to repay his tenth loan and so a payment plan was arranged. The loans ranged in size from £80 to £620 and often overlapped. The largest monthly instalment Mr P had to make was about £340, but it was often under £100.

Lenders are obliged to make sufficient and proportionate checks to make sure that loan repayments are affordable without undue hardship. Lending Stream said it checked Mr P's credit score and asked him for his income and expenditure. It said he had sufficient disposable income to afford to repay the loans, at least about £445 per month. It said his credit score was satisfactory apart from for his second loan when it was low.

I agree that Lending Stream's affordability checks were proportionate for his first loan of £370 with a monthly repayment of £185. I also agree that size of the repayments for all of his loans was within Mr P's stated disposable income. I think it was for Mr P to be accurate about his outgoings.

But we'd expect a lender to be alert to any warning signs of financial difficulties that might trigger concerns about a dependency on payday lending or that further checks were needed.

Lending Stream has agreed that its own check showed that Mr P's credit score for his second loan was low. Lending Stream's check showed that Mr P was heavily and increasingly in debt to a range of lenders. The amount of his debt had increased greatly by the time of his second loan. He still hadn't repaid his first loan. I think this should have alerted Lending Stream to make further checks on Mr P's circumstances.

It could, for example, have looked at Mr P's Bank statements. Mr P has provided these from the time of his loans. He had credit card and short term loan debts. He was reliant on increasing short term loans to fund his gambling habit and his living expenses.

I think if Lending Stream had made further checks it would have seen, as I have, that Mr P was dependent on short term loans. And so it would have decided that giving him further loans would be irresponsible.

So I agree with the investigator that Lending Stream should refund interest and charges from the second loan onwards, with interest. And it should remove related adverse information from Mr P's credit file.

my final decision

My final decision is that I uphold this complaint. I require Lending Stream LLC to do the following:

1. Refund Mr P the interest and charges he paid on all his loans from the second loan onwards, adding interest at 8% simple per annum from the date of payment to the date of settlement.
2. If Lending Stream considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mr P how much it's taken off. It should also give Mr P a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.
3. Remove adverse information related to these loans from Mr P's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 30 January 2017.

Phillip Berechree
ombudsman