

complaint

Mr W complains that Gain Credit LLC trading as Lending Stream approved loans which were unaffordable and he was not able to meet his essential living expenses.

Mr W is represented by a third party.

background

Lending Stream approved eight instalment loans between December 2015 and November 2016 ranging from £80 to £480.

The first three loans were repaid by Mr W. Payment arrangements were agreed between the parties around January 2017 for the other five loans. Mr W complained to Lending Stream through his representative around October 2017.

The complaint was brought to this service in April 2018. Lending Stream sent to us its submissions to defend the complaint in May 2018.

One of our adjudicators requested additional information from Mr W's representative but this has never been received. So her assessment of the complaint was carried out on the information available to her and both parties were informed of her view in October 2018.

Our adjudicator thought that the checks Lending Stream carried out for Loans 1 and 2 were proportionate. But she did not think that proportionate checks were carried out in relation to Mr W's applications for Loans 3 to 8, of which she upheld the complaint for Loans 3 and 4 on unaffordability grounds.

For Loans 5 to 8 she was not able to assess these due to lack of information from Mr W.

Mr W's representative has not made any additional submissions or sent anything further for us to consider. So I take it from Mr W's representative's lack of response that it takes no issue with the adjudicator's opinion.

Lending Stream accepted the opinion and has been collating the information to put things right for Mr W for some time. So Lending Stream has agreed to the resolution. But due to lack of progress since then, the complaint has been passed to me for a decision.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. I have taken into account the law, any relevant regulatory rules and good industry practice at the time the loans were offered.

Before lending money to a consumer a lender should take proportionate steps to understand whether the consumer will be able to repay what they are borrowing in a sustainable manner without it adversely impacting on their financial situation.

Having reviewed the adjudicator's opinion, and in view of the matters outlined in the background section to this decision then I confirm that opinion and uphold the complaint in relation to Loans 3 and 4.

putting things right

To put things right for Mr W, I direct that Lending Stream should:

- refund all the interest and charges applied as a result of Loans 3 and 4; and
- add interest at 8% per year simple interest* on the above refunded sums from the date they were paid, if they were, to the date of settlement;
- remove any adverse payment information recorded on Mr W's credit file as a result of the interest and charges on Loans 3 and 4;

Lending Stream is entitled to set off any monies arising from the redress against any monies Mr W may owe it, but to be clear this should only be in respect of the principal sum borrowed. Any unpaid charges and interest would need to be removed first and any payments made to either loan treated as if Mr W had paid down the principal.

If a third party owns any debt then in order to do the set off I have outlined above, Lending Stream will need to repurchase that debt. If it does not do that then it cannot do the set off and the full amount due will be repayable to Mr W directly. And in those circumstances the third party will need to be directed by Lending Stream to correct any adverse entries on Mr W's credit file, so far as it is able to do so.

Any monies outstanding can be repaid by a repayment plan if one is not already in place.

*HM Revenue & Customs requires Lending Stream to take off tax from this interest. It must give Mr W a certificate showing how much tax it's taken off if he asks for one.

my final decision

My final decision is that I uphold Mr W's complaint in part and direct that Lending Stream does as I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 13 April 2019.

Rachael Williams
ombudsman