

## **The complaint**

Mr A complains that Match the Cash Limited (trading as Guarantormyloan) was irresponsible to approve his loan.

## **What happened**

Mr A took out a Peer to Peer (P2P) loan via Guarantormyloan on 15 January 2019. He borrowed £2,000 and was due to repay it over 18 months with monthly repayments of £177.76 until 15 July 2020.

Mr A says that his credit file would have shown a very poor credit rating, along with a long list of other borrowing, including short-term loans. He says he had a poor repayment history and was borrowing just to pay his bills. Mr A adds that Guarantormyloan's money was used to pay off some of his other loans, but it just kept him in the debt loop.

Guarantormyloan says it completed a full assessment of Mr A's income and expenditure which included verifying his income and checking his credit file. It says Mr A provided a bank statement and pay slip and further checks showed Mr A was not receiving rental income as he'd declared. Guarantormyloan says Mr A said the loan was to repay his short-term loans and part of his credit card balance. It says it considered the loan was affordable.

Our adjudicator recommended the complaint should be upheld. She found that Guarantormyloan's checks showed Mr A was spending a significant amount of money on gambling and it should have realised it was unlikely he'd be able to sustainably repay the loan. Our adjudicator recommended that Guarantormyloan should refund any payments Mr A made above the principal (plus 8% statutory interest) or agree a suitable repayment plan for any remaining principal balance once all payments had been applied to it. She said it should also ensure that any associated negative information is removed from Mr A's credit file.

Guarantormyloan responded to say, in summary, that Mr A's credit file showed no payment issues. It added that, had the outstanding loans been repaid as discussed, Mr A would in fact have been left with a surplus of over £500 each month. Guarantormyloan added that Mr A did, in fact, clear his loan after nine months and that at no point did he raise the issue of gambling. It said, therefore, that Mr A's complaint had not been properly addressed and the gambling was irrelevant. Finally, Guarantormyloan said Match the Cash is a Market Place Lender and as such did not receive the capital and interest paid by Mr A as these are paid directly to the lenders on the platform.

## **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.

I need to take into account the relevant rules, guidance and good industry practice.

The Financial Conduct Authority (FCA) was the regulator when Guarantormyloan agreed Mr A's lending. Its rules and guidance obliged it to make responsible lending decisions. As set out in the regulator's Consumer Credit Sourcebook (CONC), this meant that Guarantormyloan needed to take reasonable and proportionate steps to assess whether or not a borrower could afford to meet the loan repayments in a sustainable manner over the lifetime of the agreement.

Specifically, for Peer to Peer lending, CONC 5.5A.5R says:

*A firm must undertake a reasonable assessment of the creditworthiness of a borrower before:*

- 1. a P2P agreement is made; or*
- 2. the amount of credit provided under a P2P agreement is significantly increased; or*
- 3. a credit limit for running-account credit under a P2P agreement is significantly increased.*

In addition, CONC 5.5A.11R states that:

*The firm must consider:*

- 1. the risk that the borrower will not make repayments under the agreement by their due dates (this is sometimes referred to as credit risk); and*
- 2. the risk to the borrower of not being able to make repayments under the agreement in accordance with CONC 5.5A.13R (see below).*

CONC 5.5A.13R:

*The firm must consider the borrower's ability to make repayments under the agreement:*

- 1. as they fall due over the life of the agreement and, where the agreement is an open-end agreement, within a reasonable period;*
- 2. out of, or using, one or more of the following:*
  - a. the borrower's income;*
  - b. income from savings or assets jointly held by the borrower with another person, income received by the borrower jointly with another person or income received by another person in so far as it is reasonable to expect such income to be available to the borrower to make repayments under the agreement; and/or*
  - c. savings or other assets where the borrower has indicated clearly an intention to repay (wholly or partly) using them;*
- 3. without the borrower having to borrow to meet the repayments;*
- 4. without failing to make any other payment the borrower has a contractual or statutory obligation to make; and*
- 5. without the repayments having a significant adverse impact on the borrower's financial situation.*

In general, I'd expect a firm to require more assurance the greater the potential risk to the borrower of not being able to repay the credit in a sustainable way. So, for example, I'd expect a firm to seek more assurance, potentially by carrying out more detailed checks

- the *lower* a person's 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 *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *longer* the term of the loan (reflecting the fact that the cost of the credit is likely to be greater and the borrower is required to make payments for an extended period).

Bearing all of this in mind, in coming to a decision on Mr A's case, I have considered the following questions:

- Did Guarantormyloan complete reasonable and proportionate checks when assessing Mr A's loan applications to satisfy itself that he would be able to repay the loan in a sustainable way?
  - If not, what would reasonable and proportionate checks have shown?
- Did Guarantormyloan make a fair lending decision?
- Did Guarantormyloan act unfairly or unreasonably in some other way?

With regard to the first question, I'm satisfied Guarantormyloan completed reasonable and proportionate checks. I say that because I've seen evidence that shows Guarantormyloan:

- Asked Mr A about his income and expenditure and verified his answers;
- Completed a detailed credit check;
- Obtained a recent payslip;
- Analysed Mr A's most recent bank statement.

So I now need to consider whether, based on the information it had, Guarantormyloan made a fair lending decision. I accept it calculated Mr A would have had over £500 left after repaying his short-term loans and making the loan repayment, but Mr A's bank statement clearly shows over £1,000 of gambling transactions within that single month. As this was more than half of Mr A's verified monthly income, I find this should have been a clear indication to Guarantormyloan that Mr A was struggling to manage his money and was unlikely to be able to sustainably repay his loan.

I acknowledge that Guarantormyloan says Mr A repaid the loan within nine months, but I can see he also took out another £3,000 loan shortly before this, as well as two further credit cards, with a combined limit of £1,450, earlier in 2019. So I can't conclude Mr A's early repayment of the loan was an indication that it was affordable to him. It seems to me it's likely he was repaying one debt with another.

I also accept Guarantormyloan says Mr A's complaint was not about the gambling. But I'm satisfied Mr A's complaint was about irresponsible lending and I can't conclude Guarantormyloan acted responsibly by approving the loan when it had clear evidence of a significant gambling issue.

In summary, taking all the available evidence into account, I'm satisfied Guarantormyloan was irresponsible to approve Mr A's lending. I say that because he wasn't likely to be able to

meet his repayments sustainably given his level of gambling, and it seems to me that Mr A made his repayments by borrowing elsewhere, notwithstanding that he said the loan was for debt consolidation. And, given his level of existing debt and how he was managing it, it doesn't seem to me that the loan would help consolidate his debt but rather increase and prolong his levels of indebtedness whilst potentially enabling further gambling.

Finally, I note that Guarantormyloan disagrees with the redress recommendation due to the nature of the loan agreement. Whilst I acknowledge that it says Mr A paid the capital and interest directly to the lenders on its platform, I still find it is Guarantormyloan's responsibility to compensate Mr A. I say that because I find that Guarantormyloan failed to perform the necessary checks to ensure the loan was affordable and so Mr A has lost out as a result of the interest he was charged. The redress seeks to put Mr A back in the position he would have been in had Guarantormyloan made a responsible lending decision and so it is Guarantormyloan's responsibility to refund the money. I accept Guarantormyloan says the refund is not money it ever received, but that is not a concern for Mr A as he has lost out as a result of actions by Guarantormyloan.

### **My final decision**

My decision is that I uphold this complaint. Match the Cash Limited (trading as Guarantormyloan) should:

- Add up the total amount of money Mr A received as a result of having been given the loan. The repayments Mr A made should be deducted from this capital amount;
  - If this results in Mr A having paid more than he received, then any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement\*);
- Remove any negative information recorded on Mr A's credit file regarding the loan.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 26 November 2020.

Amanda Williams  
**Ombudsman**