DRN-2004512

The complaint

Mr D complains that Gracombex Ltd trading as The Money Platform ("TMP") lent to him in an irresponsible manner.

What happened

I issued a provisional decision on this complaint earlier this month that I summarise below.

Mr D was given 27 loans by TMP between July 2017 and July 2019. The loans were due to be repaid in monthly instalments over periods of between one and three months. Mr D has successfully repaid most of his loans but a balance remained outstanding on his final loan when he made his complaint. A summary of some Mr D's borrowing from TMP is as follows;

Loan Number	Borrowing Date	Repayment Date	Loan Amount
1	10/07/2017	27/07/2017	£ 250
2	31/07/2017	22/09/2017	£ 500
3	26/09/2017	25/10/2017	£ 500
4	30/10/2017	01/11/2017	£ 500
5	09/11/2017	24/11/2017	£ 250
6	28/11/2017	22/12/2017	£ 750
7	02/01/2018	03/01/2018	£ 500
8	08/01/2018	11/02/2018	£ 250
9	19/03/2018	23/03/2018	£ 250
10	26/03/2018	25/04/2018	£ 500
:	:	:	:
27	01/07/2019	-	£ 500

In my provisional decision I explained the basis on which I would decide the complaint, and in particular I said that the checks TMP needed to do would need to take into account things such as how much was being lent, the repayment amounts and the consumer's income and expenditure. With this in mind, in the early stages of a lending relationship, I thought less thorough checks might be reasonable and proportionate.

I thought that the checks TMP did before agreeing the first three loans were proportionate. So I didn't think it had been wrong for TMP to agree to give these loans to Mr D.

I thought that TMP needed to do more checks before agreeing the fourth loan. I said by then it would have been proportionate to supplement the information it had gathered by asking Mr D about any other short term loans he had outstanding at that time. But I said that had it done so, I didn't think it would have concluded that it shouldn't give this loan to Mr D. I didn't think it had been wrong for TMP to agree to give this loan to Mr D either.

I thought that by the time Mr D asked for his fifth loan TMP should have taken steps to independently check the true state of Mr D's finances rather than relying on information he was providing. From better checks it would have been clear that Mr D was spending a significant amount each month on what appear to be gambling transactions. So I didn't think it would be reasonable for a lender to conclude that any borrowing would be likely to be repaid in a sustainable manner – that is from Mr D's normal income or savings. And since the spending on gambling continued through the rest of Mr D's borrowing relationship with TMP I didn't think TMP should have lent to Mr D from loan 5 onwards.

And looking at the overall pattern of TMP's lending history with Mr D I thought by loan 7 the lender should have reached the point where it would reasonably have also concluded that further lending was unsustainable, or otherwise harmful. And so TMP should have realised that it shouldn't provide further loans for that reason too.

Mr D has said that he accepts my provisional decision. TMP has provided us with some extensive comments. Although I am only summarising here what TMP has said, I have considered its entire response carefully before writing this decision.

TMP considers that Mr D's financial circumstances improved over the time he was borrowing, and that he used the loan product in a flexible and prudent manner. It says there is no reason why he shouldn't be allowed to reuse the loan product any number of times and that Mr D repaid all of his loans early without any issues.

TMP says that it is common for lenders to increase a credit limit to borrowers after they demonstrate their repayment ability. So Mr D increasing his loan size shouldn't be seen as any indicator of problems. And it says that it monitored Mrs D's financial circumstances over the lifetime of his loans.

TMP has detailed the checks it did before lending to Mr D. It checked his credit file, performed an affordability check, a full credit assessment, and it verified his income. It says that there is no regulatory requirement for it to consider Mr D's bank statements so any findings I make based on those are irrelevant. It says that its checks were extensive, reasonable and proportionate.

TMP says that it should be seen as a positive behaviour should a consumer repay a loan before it is due. It doesn't allow top ups, or rollovers. And there is always a break of at least a few days between loans. It says that the average length of each loan Mr D took was consistently around 20 days. It acknowledges that 27 loans is a large number but points out these loans were taken over a period of 2 years. It says all businesses rely on repeat customer behaviour.

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.

Having carefully considered the additional comments made by TMP, I have reached the same conclusion, and for the same reasons, as I did in my provisional decision. But I would like to comment further on the matters raised by TMP.

The regulations say that assessments need to be proportionate to the circumstances of the lending and the consumer. It may be reasonable early on to rely on what the consumer has said or to rely on assumptions about their circumstances but it might not be reasonable to do so in all circumstances. As I explained in my provisional decision, I think by the time of loan 5, it would be proportionate to get an independent view of Mr D's finances.

I used copies of Mr D's bank statements as a relatively quick and easy method of establishing his true financial position at the time of the loans. I have not mandated that was the method TMP should have used – simply that it was unreasonable at that stage of its relationship to base its assessment, even in part, on the information from Mr D. And since I think proportionate checks should have given TMP a full understanding of how Mr D was spending his money – and that the real reason he was borrowing so heavily and frequently was to fund a gambling problem – I don't think it should have agreed to lend to him from that point.

The Financial Conduct Authority (FCA) and the Office of Fair Trading (OFT) have both been very clear that lenders need to consider the potential harm caused by relending and that not doing so would be irresponsible.

The purpose of short term loans was set out in the OFT guidance (Section 6.25 referenced by the FCA CONC regulations in Section 6.7). They are a "*short term solution to temporary cash flow problems"*. The FCA defined what is meant by this short term solution (credit due to be repaid or substantially repaid within 12 months of advancement) but it doesn't define what is meant by a temporary cash flow problem. I think it is reasonable to consider that this could mean different things for different consumers depending on their circumstances. But in this case, I think by the time Mr D asked for loan 7 he was not likely to have been borrowing to solve a short term problem but rather to meet an ongoing need.

I agree with TMP that in some circumstances it might show good financial management to repay high cost loans early and so save some interest costs. But I don't think that is the case when a consumer regularly and repeatedly borrows similar or increased amounts very shortly afterwards. Instead of good financial management I think that this would indicate a need to refinance borrowing, and that a consumer was most likely facing financial problems.

So I don't think TMP should have agreed to give Mr D loans 5 to 27. TMP needs to pay Mr D some compensation.

Putting things right

I don't think TMP should have agreed to lend to Mr D after, and including, the loan that he took on 9 November 2017. So TMP should;

- refund all the interest and charges Mr D paid on loans 5 to 26, and loan 27 if it has now been fully repaid.
- pay interest of 8% simple a year on any refunded interest and charges from the date they were paid (if they were) to the date of settlement†
- if loan 27 hasn't yet been fully repaid remove any interest and charges still outstanding on the loan and treat all the payments Mr D made towards this loan as payments towards the capital

  A. if reworking Mr D's loan account as I've directed results in Mr D effectively having made payments above the original capital borrowed, then TMP should refund these overpayments with 8% simple interest calculated on the overpayments, from the date the overpayments would have arisen, to the date of settlement†.

  B. If reworking Mr D's loan account leaves an amount of capital still to be paid, then

TMP can use the total refund for loans 5 to 26 (after the deduction of tax) to offset this.

- remove any adverse information recorded on Mr D’s credit file in relation to loans 5 and 6

- the number of loans taken from loan 7 onwards means any information recorded about them is adverse. So all entries about loans 7 to 26, and about loan 27 when it has been fully repaid, should be removed from Mr D’s credit file.

† HM Revenue & Customs requires TMP to take off tax from this interest. TMP must give Mr D 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 D’s complaint and direct Gracombex Ltd to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr D to accept or reject my decision before 12 August 2020.
Paul Reilly
Ombudsman