

## **The complaint**

Mr M complains UK Credit Limited irresponsibly approved a loan for a third party ('the borrower') for which he stood as guarantor for.

Mr M is represented by a third party. But for ease; I'll refer to all submissions as if they were made directly by him.

## **What happened**

UK Credit approved the borrower for a £3,000 loan in April 2015. The term of the loan was 36 months with repayments of approximately £150 per month.

Mr M says the borrower took advantage of him and pressured him into acting as the guarantor for the loan. He says he was unaware of the borrower's financial circumstances at the time of the application. Mr M says he has lost out financially as the borrower defaulted on the loan and caused Mr M to sell his property to settle the outstanding debt.

Our investigator recommended the complaint be upheld. In coming to this outcome he explained the information UK Credit gathered on the borrower during the application demonstrated that it should not lend. As such Mr M should not have been accepted as the guarantor.

UK Credit disagreed with our investigator. It maintained that the checks it completed were proportionate and that these showed it made a fair decision to lend.

## **What I've decided – and why**

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Having done so I'm satisfied this complaint should be upheld. This is for broadly the same reasons as our investigator set out.

We've set out our approach to complaints about lending where guarantors are involved as well as the key rules, regulations and what we consider to be good industry practice on our website. I've used this approach to help me decide this complaint.

UK Credit is aware of our general approach when considering these types of complaints; so I won't set this out in full here. As it will become apparent, I've not made a finding in relation to Mr M's informed consent, or affordability. This is because I'm satisfied UK Credit should not have lent to the borrower in the first instance. So, any further finding I might make in relation to Mr M's informed consent or affordability would not materially alter the outcome of the complaint.

In addition to any specific obligations UK Credit owed to Mr M as a guarantor, it still needed to take reasonable steps to ensure it responsibly lent to the borrower. The relevant rules, regulations and guidance at the time UK Credit lent required it to carry out reasonable and proportionate checks. These checks needed to assess the borrower's ability to afford the loans and repay them sustainably over their respective terms without causing them financial difficulties.

There isn't a set list of checks a lender needs to carry out, but they should be proportionate, taking into account things like the type, amount, duration and total cost of the credit, as well as the borrower's circumstances.

And it isn't sufficient for UK Credit to just complete proportionate checks – it must also consider the information it obtained from these checks to make a fair lending decision. This includes not lending to someone in financial hardship; and ensuring repayments can be made without the need to borrow further or experience significant adverse consequences.

The fact this loan was secured by a guarantee and indemnity agreement, which meant that UK Credit had a second party to request payments from, didn't lessen the obligations that UK Credit had to ensure the loan was affordable.

UK Credit searched the borrower's credit file; and obtained information from them to verify the application. These showed that the borrower had some negative markers (such as defaults) in the past. The borrower didn't have any active credit; and was managing their current account with a small positive balance. And whilst these checks may've been proportionate, I'm not satisfied based on the information it saw that UK Credit made a fair decision to lend.

UK Credit said in response to our investigator that the majority of the negative markers were historic – having been registered in the years before this application was made. It also says the borrower's current account was being well managed and showed no concerns.

I've considered these arguments and I'm not persuaded by them. Whilst it is true that the majority of the negative markers recorded against the borrower were historic; there was also a recent negative marker registered. The fact the borrower had no active credit and didn't appear to be reducing their existing debts to me suggests that there were likely issues with their finances. I find it notable that the borrower didn't have any active credit – this could arguably demonstrate his low credit worthiness; coupled with the fact they were seeking to get his credit with the security of a guarantor. The recent negative marker (albeit for a small amount) also indicated that the borrower may not have been managing their finances to sufficient level.

I also disagree the information UK Credit gathered demonstrated the borrower was managing their current account well. The information suggests this account was subject to multiple incoming and outgoing transfers which, in my view, ought have prompted further investigation or questioning of the borrower's finances. There is evidence of the borrower entering into their overdraft at points. The information does not persuasively demonstrate the borrower had the necessary funds to meet the repayments when they became due (I note the borrower only made a small number of repayments before missing payments and ultimately being defaulted by UK Credit).

So I'm not satisfied UK Credit made a fair decision to lend to the borrower in the first instance; as the information it had suggested that the borrower was unlikely to be in a position to repay the loan sustainably.

It follows that Mr M should therefore not have been approved as the guarantor for this loan

either; as it should not have been accepted in the first place.

### **Putting things right**

Mr M has lost out financially due to the actions of UK Credit. And as such it needs to put things right. The loan in question has been settled so Mr M is not subject to the agreement any longer; but he has made payments which he should not have been subject too. In order to put things right; I require UK Credit Limited to:

- To refund any repayments Mr M has made toward the loan, with 8% simple interest from the date of payment to the date of settlement;\*
- To remove any information recorded on Mr M's credit file as a result of this loan.

\* HM Revenue & Customs requires UK Credit Limited to take off tax from this interest. UK Credit Limited must give Mr M 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 this complaint against UK Credit Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 6 October 2022.

Tom Whittington  
**Ombudsman**