

## **The complaint**

Miss O complains that UK Credit Limited shouldn't have accepted her as a guarantor for a loan.

## **What happened**

Miss O agreed to become a guarantor for a borrower who took a loan from UK Credit. The loan was drawn in December 2019 for £3,000 and was to be repaid in 36 monthly instalments of £167.74.

Miss O says UK Credit didn't look at her situation properly before accepting her as a guarantor. She says it didn't take into account her existing credit, that she was already a guarantor for someone else and that she lived with the people she was guaranteeing loans for. Miss O said that if either of them failed to pay their loans, she'd be faced with an increase in outgoings for bills etc, as well as making payments to the loans. She says UK Credit shouldn't have accepted her as a guarantor and says she was coerced by the borrower into doing so.

UK Credit looked into her complaint. It said it had completed its usual checks and ensured Miss O had understood what being a guarantor meant. When doing so it spoke to her about her income and expenditure which showed she had sufficient disposable income to cover her existing commitments and the two guarantees should they be called upon.

During the course of investigating her complaint, it asked for and received Miss O's bank statements for October and November 2019 – just before the loan was agreed. It said these showed that she actually had a larger disposable income than had been taken into account during the application process. UK Credit rejected her complaint as it was satisfied she understood the role of a guarantor and it felt she could afford the repayments if needed.

Miss O disagreed with UK Credit so she referred her complaint to us. One of our investigators looked into it and upheld Miss O's complaint. He felt UK Credit hadn't carried out reasonable and proportionate checks to ensure Miss O could afford to make the payments should the borrower fail to do so. He said if UK Credit had, it ought to have refused to accept Miss O as guarantor and explained to UK Credit how he felt things should be put right.

UK Credit didn't agree with our investigator. As there was no agreement, the complaint has been passed to me for a decision.

## **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've asked Miss O for evidence that she was coerced by the borrower into acting as a guarantor. I'm aware from what she says she's been receiving help from local organisations. But she's not been able to provide me with any evidence in that regard.

I've listened carefully to conversations Miss O had with UK Credit at the time and she seemed content and relaxed. I heard nothing which I think ought to have alerted UK Credit that she was entering into the agreement under any duress. This is not to say I disbelieve what Miss O has said, simply I don't have the evidence to support it.

But I've looked carefully at the evidence UK Credit had at the time of the application and has gathered since. Having done so, I don't think UK Credit should have accepted her as guarantor for this loan. Let me explain why.

We've set out our approach to complaints about high-cost credit on our website – including the key relevant rules, guidance, good industry practice and law. I've considered this approach when deciding this complaint.

UK Credit needed to carry out reasonable and proportionate checks to ensure that it didn't lend to the borrower - or accept Miss O as guarantor - irresponsibly. I think there are key questions I need to consider in order to decide what is fair and reasonable in the circumstances of this complaint:

- Did UK Credit obtain Miss O's properly informed consent before binding her to the guarantee and indemnity?
- Did UK Credit carry out reasonable and proportionate checks to satisfy itself that Miss O was in a position to sustainably repay the loan if called upon?
- Did UK Credit make a fair decision to accept Miss O as guarantor?
- Did UK Credit act unfairly or unreasonably towards Miss O in some other way?

UK Credit had to carry out reasonable and proportionate checks to satisfy itself that Miss O would be able to repay the loan sustainably if need be. It's not about UK Credit assessing the likelihood of it being repaid, but it had to consider the impact the loan repayments would have on her.

UK Credit has now provided details of the checks it carried out on the borrower before accepting Miss O as the guarantor. While I haven't seen everything I would have requested had this complaint been brought by them, I can see why UK Credit progressed with the application. To be clear, I'm not reaching any conclusion on the decision to lend to the borrower as the complaint I'm considering hasn't come from them.

#### Did UK Credit obtain Miss O's properly informed consent before binding her to the guarantee and indemnity?

I've listened to the call Miss O had with UK Credit where she was played a recorded message regarding her duties as guarantor. While the message itself isn't provided, I'm satisfied it would have contained the detail required and, after the message, Miss O confirmed she'd understood it. In any event, in my view the documentation she signed sets out her obligations in sufficient detail. Miss O confirmed she understood her role and liability as a guarantor and consented to it.

#### Did UK Credit carry out reasonable and proportionate checks to satisfy itself that Miss O was in a position to sustainably repay the loan if called upon?

UK Credit carried out its usual process including checking Miss O's credit file, discussing her income and expenditure, and ensuring she understood what it means to be a guarantor.

During the course of those checks, UK Credit accepted that Miss O earned in the region of £1,850 per month. She lived with her parents and siblings and made a small contribution to

the household bills. It was aware that the borrower in this instance was a family member she lived with, and she also guaranteed a loan for another. Miss O's credit file showed she had several credit agreements in her name totalling approximately £20,000. While these were being paid in line with the agreements, one – a loan to another high-cost credit provider for £273 per month – was taken very recently and she'd only had to make two payments so far.

When UK Credit discussed Miss O's income and expenditure with her, the figures she gave left her with a monthly disposable income of around £55 per month after accounting for the repayments for this loan (if she'd needed to make them). So I can see why on a pounds and pence basis, UK Credit felt she'd be able to make the payments if need be.

Overall, I think UK Credit gathered enough information to reach a decision regarding Miss O's circumstances. It had a fairly good idea of her finances and, based on the figures she gave it, she had a small surplus of income against her declared expenditure. So I'm satisfied UK Credit carried out reasonable and proportionate checks.

#### Did UK Credit make a fair decision to accept Miss O as guarantor?

While I'm satisfied UK Credit gathered enough information to make a fair decision, it was important that it considered the information carefully to be sure she could make the repayments sustainably if called upon. In other words that she'd be able to make the payments without undue difficulty, while being able to meet other commitments and without having to borrow further.

Miss O's budget was tight – she had approximately £55 a month surplus should she be called upon for this loan. When her expenditure was discussed, she confirmed she had very little in the way of household bills to pay as these were covered by other family members. But this loan was taken out by a family member she lived with, as was another she was a guarantor for which included those who paid the bills. If they were to fail to make payments to the loans, it would seem likely that they would also be unable to pay their share of the household bills and they'd fall at least in part to Miss O. So her budget, if called upon, would look very different at that point.

Furthermore, she had a high level of credit - £20,000 - relative to her income. Her monthly repayments to credit was calculated as £767 – approximately 41% of her monthly income. Some of this debt included credit cards where she was close to the limits but was paying relatively low payments of between £20 and £100 per month. Such payments would be unlikely to reduce the balances significantly throughout the term of this loan. And as already mentioned she had a high-cost credit loan herself which had only recently been taken.

I'm not persuaded that Miss O's financial circumstances were strong enough to take responsibility for another person's liability. She was reasonably heavily indebted herself and had recently increased that indebtedness. If called upon, it's likely her situation would have worsened due to her connection with the borrower and she'd be unable to sustainably fulfil her responsibility as guarantor.

Overall, for the reasons I've explained, I don't think UK Credit reached a fair decision to accept Miss O as a guarantor for this loan.

#### Did UK Credit act unfairly or unreasonably towards Miss O in some other way?

I've carefully read, listened to and thought about all the evidence provided by each party to this complaint. Having done so, I don't think UK Credit has acted unfairly or unreasonably towards Miss O in some other way.

But I do think UK Credit should have refused to accept Miss O as a guarantor, so I am upholding her complaint.

### **Putting things right**

When I find that a business has done something wrong, I'd normally direct that business to put the complainant in the position they would be in now if the mistake it made hadn't happened, as far as is reasonably practical. In this case, that would mean putting Miss O in the position she would be in now if she hadn't been accepted as guarantor for this loan.

UK Credit should:

- release Miss O from the obligations placed on her by the guarantee and indemnity agreement and then terminate it;
- refund any repayments Miss O has made towards the loan and add 8% simple interest from the date she made the payment to the date of settlement;\*
- Remove any information recorded on Miss O's credit file as a result of this loan.

\*If UK Credit considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Miss O how much it's taken off. It should also give her a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

### **My final decision**

For the reasons I've explained, I uphold Miss O's complaint. UK Credit Limited should put matters right for her as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss O to accept or reject my decision before 19 October 2022.

Richard Hale  
**Ombudsman**