

## **Complaint**

Mr C has complained about instalment loans which Gracombex Ltd (trading as “The Money Platform”) arranged for him. Mr C says that the loans were unaffordable and were therefore irresponsibly provided to him.

## **Background**

The Money Platform operated the electronic system in relation to lending which led to Mr C being provided with a total of three loans between May 2022 and November 2022.

All three loans were for £1,000.00. The first loan was provided in May 2022 and was due to be repaid in three instalments. The second of the loans was provided in August 2022 and was also due to be repaid in three instalments. And finally Mr C’s third loan, which was also due to be paid in three instalments, was taken in November 2022.

When it reviewed Mr C’s complaint The Money Platform didn’t think that it had done anything wrong when providing Mr C’s loans. However, as the complaint was made while loan 3 remained outstanding and Mr C had stated that he was having difficulty making his payments as part of his complaint, it agreed not to add the further interest due on loan 3. Mr C remained dissatisfied at The Money Platform’s response and referred his complaint to our service.

One of our investigators reviewed Mr C’s complaint. Unfortunately, she misinterpreted The Money Platform’s final response and thought that it had agreed to refund all of the interest on loan 3. So she didn’t look at the complaint about loan 3 and also thought that The Money Platform didn’t do anything wrong when arranging loans 1 and 2 for Mr C. So she concluded that The Money Platform’s offer was fair and reasonable.

Mr C disagreed with our investigator’s assessment. So the case was passed to an ombudsman as per the next step of our dispute resolution process.

## **My second provisional decision of 4 March 2024**

I issued a second provisional decision – on 4 March 2024 - setting out why I was intending to partially uphold Mr C’s complaint. In summary, I concluded that:

- The Money Platform’s checks before it provided loan 1 to Mr C were reasonable and proportionate;
- The Money Platform’s checks before it provided loans 2 and 3 to Mr C weren’t reasonable and proportionate as his credit file was more impaired than what The Money Platform was arguing;
- The number of loans Mr C was taking out with The Money Platform arguably in itself ought to have prompted concern. In any event, looking into Mr C’s circumstances more closely will have shown loans 2 and 3 to have been unaffordable for Mr C as a matter of fact, therefore these loans shouldn’t have been provided to Mr C.

## **Responses to my second provisional decision**

Mr C responded to confirm that he agreed with my second provisional decision and that he had nothing further to add.

The Money Platform responded and disagreeing with my assessment: In summary, it:

- Made comments with regard to whether a case fee should be charged.
- Said there were no defaults on Mr C's credit file.
- Said there was no evidence of extensive high-cost short term credit on Mr C's credit file.

## **My findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

We've explained how we handle complaints about unaffordable and irresponsible lending on our website. This applies to lenders and those with the responsibilities of lenders – such as operators of electronic systems in relation to lending like The Money Platform here. So I've used this approach to help me decide Mr C's complaint.

Having carefully considered everything, including the responses to my provisional decision, I'm still partially upholding Mr C's complaint. I'll explain why in a little more detail.

Before I go on to consider the complaint, I've seen The Money Platform's comments relating to the case fee due on this case. However, our investigator has already provided a response to this matter. And as The Money Platform's comments on the case fee do not relate to the merits of the case, I do not propose to comment on these matters in this decision.

I now turn to the substance of Mr C's complaint.

The Money Platform needed to make sure it didn't bring about Mr C's loans irresponsibly. In practice, what this means is The Money Platform needed to carry out proportionate checks to be able to understand whether Mr C could afford to repay any credit it arranged.

Our website sets out what we typically think about when deciding whether a lender's (or an equivalent such as here) checks were proportionate. Generally, we think it's reasonable for a checks to be less thorough – in terms of how much information is gathered and what is done to verify it – in the early stages of a lending relationship.

But we might think more needed to be done if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect an operator of an electronic platform to be able to show that it didn't continue to bring about loans for a customer irresponsibly.

### *The Money Platform's checks*

The Money Platform says that it agreed to these loans after requesting income information from Mr C and carrying out a credit search on him. It validated Mr C's declared income by cross-checking the declaration against information of the amount of funds going into Mr C's bank account each month. This information indicated that The Money Platform could be confident in the accuracy of Mr C's declaration.

Furthermore, the credit searches showed no current financial difficulty, Mr C was up-to-date with all of his current credit commitments and was not over his credit card limits.

In The Money Platform's view, it had no reason to doubt the information it obtained from its credit searches. And when the commitments on these credit searches were combined with an estimate of Mr C's non-discretionary outgoings, he had well in excess of what was required to make the payments to these loans, left over in disposable income. On the other hand, Mr C says that he was struggling and that he shouldn't have been lent to.

I've considered what the parties have said.

*Why I think that the checks The Money Platform carried out before arranging loan 1 were reasonable and proportionate*

In my first provisional decision, I reached the conclusion that The Money Platform ought to have been concerned by the information it would have seen in its credit checks. In particular, I thought that the credit checks The Money Platform carried out weren't as positive it is suggesting they were. This was because I was satisfied that these credit checks ought to have indicated that Mr C had a significantly impaired credit history.

The Money Platform has taken from this that I found that Mr C had county court judgments ("CCJ") and that he had defaults. To be clear, I saw (and have still seen) no evidence that Mr C had CCJs recorded against him. However, I remain satisfied that irrespective of what The Money Platform knew about Mr C at the time, it was a matter of fact that Mr C had an extended history of payday and other high-cost lending and a number of accounts with debt collectors. The number of accounts with debt collectors indicates that Mr C had defaulted on more than one credit commitment.

To be clear, this information is on Mr C's full credit file, rather than on the credit check that The Money Platform obtained. And while the information Mr C has provided, which includes the details of what all three of the main credit reference agencies were reporting, does indicate that the provider The Money Platform used reported on at least some of this, I do accept that the further information The Money Platform provided (after my first provisional decision), for whatever reason indicates that significant chunks of this information was not picked up in its own searches. I wish to reiterate this point given the comments that The Money Platform made in response to my second provisional decision.

It still remains unclear to me why there are such discrepancies – particularly as the credit score The Money Platform has referred to is not classified as excellent - at least by the agency used - in the way that The Money Platform is claiming and there has to be a reason for this.

However, I do accept that The Money Platform, at the time of loan 1 at least, does not appear to have been aware of this information. In these circumstances, particularly as this was a first application, I can't say that it ought to have been aware of it, or that there was anything else that obviously indicated that things in Mr C's application which obviously didn't add up at this stage either.

There were a couple of things which I'll elaborate upon in my findings on the checks for the later loans. But as the rest of the information gathered at the time of loan 1, did, on the face of things at least, appear to indicate that Mr C could make his payments, I'm satisfied that The Money Platform was reasonably entitled to rely on this being the case. This is irrespective of the clear information I have showing that Mr C's financial position was in fact different.

In these circumstances, I remain persuaded that the checks The Money Platform carried out before bringing about loan 1 for Mr C were reasonable and proportionate and as this is the case, I'm not upholding the complaint about this loan.

*Why I don't think that the checks The Money Platform carried out before arranging loans 2 and 3 for Mr C were reasonable and proportionate*

As explained, even though instalments loan were arranged for Mr C, rather than payday loans where the capital and all of the interest needed to be repaid in lump sums, the monthly payments required were high.

For the second and third loans it appears as though The Money Platform relied on carrying out similar checks to what it carried out for loan 1. It looks like it believed that Mr C still had a high income and it cross referenced Mr C's declaration against information provided by credit reference agencies. The Money Platform also says it checks indicated that Mr C had validated financial commitments of £1,289.00 and mortgage payments of £500 each month.

It's not clear to me how The Money Platform arrived at the fact that Mr C was paying £500 a month for his mortgage. Indeed, one of the two credit reference agencies which The Money Platform used was reporting that Mr C's mortgage payments were just under £1,200.00 a month. I also note that despite having had the opportunity to do so The Money Platform offered no comment in response to this matter in its response to my second provisional decision either.

Furthermore, when the full amount of Mr C's mortgage payment is added to what The Money Platform identified as Mr C's credit commitments, this means that Mr C was already making close to £2,500.00 in debt repayments each month. Additionally, as loan 2 was taken mere days after loan 1 was repaid and loan 3 was taken a similar period after loan 2 was repaid, I'm satisfied that there remains an argument that this, in itself, ought to have led The Money Platform to question if Mr C was borrowing further funds in order to cover the hole the payments to his earlier loans was leaving.

I've seen what The Money Platform has said about being told that a break in the chain is only needed before a fourth loan is provided. I don't know what The Money Platform has previously been told. But, in any event, each case is considered individually and decided on its own fact and circumstances - not on a fixed formula based solely on the number of loans taken. And where a borrower takes out loans pretty much one after the other as what happened here, I think that there are circumstances where this could be concerning – irrespective of whether this happens in the first three loans, or further on in a chain of lending.

I also don't consider that it is fair and reasonable to compare this loan to the average loan amount taken by customers across all lending, where the average loan amount won't have been taken at the same interest rate as this one. And I think the fairer comparison is to the average short-term loan amount. In my view the amount being taken as well as the amount of the required monthly payments were both on the high side. So I also disagree that the amounts being lent in this instance weren't high.

The Money Platform continued to utilise average data for Mr C's living expenditure irrespective of this. For the sake of completeness, I will reiterate that Mr C does not appear to have had CCJs and the credit searches The Money Platform undertook might not have shown defaulted accounts. But these loans were being taken in circumstances where Mr C had high indebtedness and he was quickly returning for further expensive lending. This did not suggest that Mr C fell within the portfolio of an average borrower – notwithstanding the amount of his income.

In my view, I cannot reasonably see how it was fair and reasonable for The Money Platform to proceed with income and expenditure calculations, which were influenced by estimated non-discretionary expenditure, in circumstances where Mr C was heavily indebted and this together with Mr C's needs for further loans suggested that he didn't fit within the profile of the average borrower.

In my view, there were a number of things flagged up as part of what was gathered for Mr C's application that were difficult to explain and The Money Platform needed to question how and why an individual, apparently with a level of disposable income in excess of £725 a month, had a need for further expensive loans immediately after repaying previous ones.

I remain satisfied that this is the case even though Mr C took out less than four loans in total – particularly as the amount of the monthly payments were high. I also think it important for me to emphasise that this is why I don't think that it was reasonable to rely on the information gathered at the time of loans 2 and 3 even though it was reasonable to do so at the time of loan 1.

Bearing this in mind, I'm satisfied that The Money Platform needed to find out about Mr C's actual non-credit related expenditure before concluding that the payments to loans 2 and 3 were affordable for him. As The Money Platform did not do this, I'm not persuaded that the checks it carried out before arranging loans 2 and 3 for Mr C were proportionate.

For the sake of completeness, I wish to make it clear that it is the combination of all of these factors which leads me to conclude that the checks carried out here were neither reasonable nor proportionate. It is not simply the fact that Mr C had other difficulties which were not apparent on The Money Platform's checks – although I do think that these matters are relevant for reasons I'll come to in the next section of this decision.

*Would reasonable and proportionate checks have shown that Mr C would have been able to repay loans 2 and 3?*

As I've determined that the checks The Money Platform carried out before arranging loans 2 and 3 weren't reasonable and proportionate, I now need to consider what such checks would more likely than not have shown. Mr C has now provided us with evidence of his financial circumstances at the time he applied for his loans.

Of course, I accept different checks might show different things. And just because something shows up in the information Mr C has provided, it doesn't mean it would have shown up in any checks The Money Platform might have carried out.

But in the absence of anything else from The Money Platform showing what this information would have shown, I think it's perfectly fair, reasonable and proportionate to place considerable weight on what this information says as an indication of what Mr C's financial circumstances were more likely than not to have been at the time.

It's also important to note that The Money Platform was required to establish whether Mr C could sustainably make his loan repayments – not just whether the loan payments were technically affordable on a strict pounds and pence calculation. The loan payments being affordable on a strict pounds and pence basis might be an indication that a consumer could sustainably make the repayments.

But it doesn't automatically follow that this is the case. And as a borrower shouldn't have to borrow further in order to make their payments, it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to sustainably make

their repayments if it is on notice that they are unlikely to be able to make their repayments without borrowing further.

The information provided shows that Mr C was heavily overdrawn at the respective times and already struggling to juggle repayments to what he already owed. He was making payments (when he could given that these payments were often returned for a lack of funds) to a number of different creditors and debt collectors.

It's still unclear to me how and why Mr C was paying so much towards debt collectors when, for the avoidance of doubt, I wish to make it clear that the credit checks that The Money Platform carried out showed no defaulted accounts. Given this clear discrepancy I have considered the possibility that Mr C might have been making these payments for someone else.

However, the reality is that Mr C was incurring returned payments on his account as a result of these payment attempts and he was also borrowing at extremely high rates of interest (on his overdraft and elsewhere) in order to make these payments. I think that it is unlikely and less likely than not that Mr C would have been making these payments for someone else in these circumstances.

So while I accept that The Money Platform's checks did not show this, nonetheless this was as a matter of fact Mr C's true financial position. And as these weren't the first loans The Money Platform was bringing about for Mr C, proportionate checks required it finding out about Mr C's actual position.

Given the state of Mr C's finances, I think that Mr C's existing financial position meant that he was unlikely to be able to afford the repayments to these loans, without undue difficulty or borrowing further. I would reiterate that I accept The Money Platform's checks did not alert it to all of this and I've seen the arguments made about the credit searches carried out since this complaint was made.

However, it wouldn't have taken too much probing to get an idea of the sheer amount Mr C was paying out each month. And bearing in mind the circumstances, I am satisfied that The Money Platform ought to have done more before arranging loans 2 and 3 for Mr C in order for its checks to have been reasonable and proportionate. I'm also satisfied that had reasonable and proportionate checks been carried out here, this would more like than not have shown The Money Platform that it shouldn't have arranged loans 2 and 3 for Mr C.

As The Money Platform operated the electronic system in relation to lending that saw Mr C provided with these loans, notwithstanding this, I'm satisfied that The Money Platform failed to act fairly and reasonably towards him. Therefore, I'm partially upholding Mr C's complaint.

Mr C ended up paying (and at the time of this complaint at least, was still being expected to pay) interest, fees and charges on loans he shouldn't have been provided with. So I find that Mr C lost out because of what The Money Platform did wrong and I'm satisfied that The Money Platform should now put things right for Mr C.

### **Fair compensation – what The Money Platform needs to do to put things right for Mr C**

Having thought about everything, I'm satisfied that it would be fair and reasonable in all the circumstances of this complaint for The Money Platform to put things right for Mr C by:

- refunding all interest, fees and charges Mr C paid on loan 2;

- removing all interest, fees and charges applied to loan 3 from the outset. The payments Mr C made should be deducted from the new starting balance – the £1,000.00 originally lent. If Mr C has already repaid more than £1,000.00 then The Money Platform should treat any extra as overpayments. And any overpayments should be refunded to Mr C. If an outstanding balance remains on loan 3 after these adjustments have been made, The Money Platform can use any compensation due from loan 2 to reduce and/or clear any amount left to pay on loan 3.
- adding interest at 8% per year simple on any refunded payments (or overpayments) from the date they were made by Mr C to the date of settlement†
- removing any and all adverse information it may have recorded about loan 2 from Mr C's credit file. If no outstanding balance remains after all adjustments have been made to loan 3, The Money Platform should also any adverse information it may have recorded about this loan from Mr C's credit file.

† HM Revenue & Customs requires The Money Platform to take off tax from this interest. The Money Platform must give Mr C a certificate showing how much tax it has taken off if he asks for one.

### **My final decision**

For the reasons I've explained, I'm upholding Mr C's complaint. Gracombex Ltd should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 30 April 2024.

Jeshen Narayanan  
**Ombudsman**