

## **The complaint**

Mr and Mrs P complain about the way Crowdstacker Limited has administered the funds they invested in a loan on its peer-to-peer (P2P) lending platform. They are unhappy with the way recovery action has been handled since the borrower stopped making payments. They have requested Crowdstacker Limited return 65% of their capital and make a compensation payment for the stress and anxiety they have suffered.

## **What happened**

Crowdstacker is a peer-to-peer (P2P) loan-based crowdfunding platform which allows investors to lend money to prospective borrowers in return for interest payments. An investor agrees to lend a proportion of the total loan a borrower is looking to borrow, and in return an investor receives interest on their loan part.

Between September 2016 and June 2017, Mr and Mrs P collectively invested £22,250 in a P2P loan through Crowdstacker's platform. They were due to be paid interest at a rate of 7.5% per year with payments made on a quarterly basis. These payments continued until the last payment was made in September 2018, after which the borrower stopped making payments. And in October 2018, the borrower fell into administration.

Following this, in its position of security trustee (an affiliate of) Crowdstacker commenced recovery action on behalf of investors to attempt to return the capital and interest due to them. It updated investors in October 2018 to say it had appointed an administrator to act on its behalf to recoup the investment. It confirmed it may take some time to complete due to the process involved.

Crowdstacker provided monthly updates to investors of the progress made. These detailed some of the issues encountered in attempts to recover funds. The October 2019 update confirmed the administration had been extended for a further 12 months and the potential for litigation to support the attempts to recover funds. It said the administration process is likely to continue for some time due to the complexity of the situation with the borrower - also that updates would now be given quarterly.

The March 2020 update stated Crowdstacker had asked the administrator to step down and appoint a preferred liquidator. This request was rejected by the administrator, so it was considering a court application. The October 2020 update details the current administrations were due to expire, and Crowdstacker had opposed an application from the administrator to extend for a further year. Crowdstacker said it applied to court to oppose this extension request, and instead asked for the company to move into liquidation and for an independent liquidator to be appointed. It said the judge agreed with Crowdstacker that there were credible concerns that warrant the appointment of an independent liquidator. Following this a liquidator was appointed, and quarterly updates continued detailing information on the recovery action and investigations by the appointed liquidator. The updates provided various commentary on the obstacles that have prevented progress in recovering funds.

In August 2023, Mr P raised concerns with Crowdstacker about the action taken and the length of time to recover funds. As they weren't satisfied with the responses received, Mr

and Mrs P raised a complaint with Crowdstacker. They confirmed they were not complaining about mis-selling of the investment, but rather Crowdstacker's conduct regarding the administration process.

Crowdstacker responded to the complaint but didn't uphold it. In summary it said:

- Its role as security trustee means that it commits to stepping in and coordinating and monitoring the administration where a borrower company fails. It has invested an exceptional amount of time and money throughout the process to continue to get a fair outcome for investors.
- It appointed a leading administrator, based on its expertise, experience and reputation. In hindsight it has not been a good decision given the difficulties faced but that could not have been anticipated at the outset.
- It took the administrators to court and achieved the successful removal and subsequent appointment of an independent liquidator who would investigate and determine if there is an additional claim against the administrators for their conduct. Since then progress has been slow and been severely hampered by the previous administrators and their professional advisors.
- There is always risk of a borrowing company failing to pay interest or repay capital. This is the reason it prepares an extensive information brochure which highlights the risks as well as the benefits and why it asks investors to complete a risk questionnaire to ensure they understand the risk they are taking.

As Mr and Mrs P remained unhappy with the response they'd received, they referred the complaint to this service for an independent review.

One of our investigators issued an initial assessment not upholding the complaint. In summary he didn't find Crowdstacker had treated Mr and Mrs P unfairly in the recovery action – including the decision it made to appoint the administrator. He also said the actions taken by the administrator were a factor in the investor capital still not being repaid, but Crowdstacker didn't have control over this. Overall, he was satisfied from the available evidence that lenders interests were being represented through the recovery and subsequent legal process Crowdstacker was involved in.

Mr and Mrs P acknowledged the outcome provided by the investigator but asked for a second opinion on the matter and requested a decision from an ombudsman.

### **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 reviewed all of the information provided by the parties. Mr and Mrs P are clear they are not complaining about the investment was sold to them, so I've concentrated my findings on the concerns raised about Crowdstacker's actions after they invested in the loan, specifically the events following the defaulting of the loan and recovery action.

P2P lending of this type involves a security trustee being appointed once loans have been made. The role of the security trustee is to act on behalf of lenders – including in situations where there are payment problems. In simple terms, lenders like Mr and Mrs P appoint Crowdstacker to act as their agent in relation to the loans they invest in – which includes any

recovery action when loans default. I've considered the actions Crowdstacker took after the loan subject to this complaint went into default.

When it became aware of risk to the security due to concerns with the credit status of the borrower and the administration of a subsidiary (that was a guarantor to the P2P loan), Crowdstacker took action to support lenders interests. It decided to enforce the security and appoint an administrator. I'm satisfied in doing this it was protecting lenders interests.

Following this, I'm satisfied Crowdstacker did keep Mr and Mrs P and other lenders up to date with the recovery action. Updates were regularly provided, and these updates highlighted the issues that were causing the delay to any return to investors.

From reviewing the updates and from the information provided, it is clear that issues with the appointed administration contributed to the length of time it has taken to conclude the recovery action. Crowdstacker has confirmed that it disputed actions by the administrator to sell assets to a connected creditor for what it viewed as a minimal return for the company. It contested this sale decision and successfully (through litigation) removed the administrators and appointed an independent liquidator to investigate the sale. Ultimately the recovery action hasn't proved successful yet, and a requirement for litigation funding has prevented further claims.

While it is correct Crowdstacker made the decision to enforce the security and appoint the administrator, I don't think this means it is responsible for the actions of the administrator. As I've mentioned, Crowdstacker are agents of the lenders. So where the individual lending members (or them collectively) can't take action in relation to the loan, it does so for them or on their behalf. In the situation of this loan, an action it took was the appointment of the administrators. Crowdstacker wouldn't have carried out the administrators actions themselves (nor would the lenders – such as Mr and Mrs P). Crowdstacker simply took the decision on behalf of lenders to appoint a professional insolvency practitioner to realise the security. From the information I've seen, the decisions taken by the administrator were a key factor in the reason why Crowdstacker's lenders are suffering losses. But for the reasons already given, Crowdstacker didn't have control over this. I'm satisfied from the available evidence that lenders interests were being represented through the recovery and subsequent legal process Crowdstacker was involved in.

I appreciate that Mr and Mrs P feel Crowdstacker should carry some responsibility for the events that occurred post default. The ultimate demise of the borrower's business and the actions taken by the administrator weren't something that were known at the outset. In my view, this is part of the broader risk of P2P lending that following default it is possible funds aren't returned to investors in full. And it appears that Mr and Mrs P understood and accepted this risk from the comments they've made in their complaint submissions.

In summary, the nature of investing in P2P loans does present a risk to lenders that borrowers' default and a risk of losses where recovery action isn't able to return all capital and interest due. I'm not persuaded that there is sufficient evidence to say there were failings by Crowdstacker that contributed to the problems in the recovery process. Having reviewed the circumstances of this loan - I don't find that Crowdstacker is responsible for covering a percentage of the losses Mr and Mrs P claim. I've found that it did act in a fair and reasonable way when fulfilling its obligations to them.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs P to

accept or reject my decision before 7 November 2024.

Daniel Little  
**Ombudsman**