

## **The complaint**

F, a company, complains that IWOCA Ltd lent to it irresponsibly.

F has been represented in this complaint by its director, Mr K.

## **What happened**

In April 2023 F took out a revolving credit facility with IWOCA. The credit limit was £14,000. The facility was supported by a personal guarantee from Mr K.

F drew down on the facility several times between April and October 2023. IWOCA agreed to increase the credit limit to £15,000 in May 2023, then to £18,000 in early October 2023.

At the end of November 2023 Mr K told IWOCA that F was struggling financially and would be likely to do so for the foreseeable future. He said F couldn't afford the November loan repayment. He asked IWOCA to agree to accept reduced monthly payments for eight months, after which he said F should be in a better position. IWOCA said that although it doesn't offer repayment or interest holidays, it might be able to agree to reduced payments for up to three months. It asked for further details of F's financial situation.

In December 2023 IWOCA sent F a final demand for payment. In January 2024 it offered to accept monthly repayments of £1,000 from F for three months, but said it wasn't willing to accept lower offers that F made. It explained that this was because they were significantly lower than the contractual repayments, and would present an increased risk of IWOCA not recovering the full balance, as it wasn't clear that F's position would improve. It said that it intended to obtain a County Court Judgment and a charging order over Mr K's property to secure its position. Once this was in place, it would be happy to freeze interest on the loan and set up an affordable payment plan.

In February 2024 IWOCA terminated the loan agreement and called for payment under Mr K's personal guarantee.

Mr K believes IWOCA was irresponsible to agree to the loan. He's told us:

- He doesn't believe that IWOCA performed adequate checks before agreeing to the loan.
- F's financial position was precarious when the loan was agreed, and subsequently worsened.
- F's accounts for the year ending March 2022 show that the balance sheet value had dropped significantly since the previous year. It used its funds to stay afloat. They also showed, among other things, high increasing loan balances.

- F's bank account statements show that it had a debt with HMRC.
- F has experienced considerable financial pressure and stress as a result of the loan. He would like IWOCA to agree to an affordable repayment plan.

IWOCA says:

- The loan was unregulated. This means that it wasn't obliged to carry out checks to ensure that the borrowing was affordable for F.
- In approving the initial facility it took into account what Mr K had told it about F's turnover in the past 12 months, and the fact that F had been trading since 2016. It also checked both F's and Mr K's credit files, which didn't show any defaults, late payments or anything else to indicate that F would struggle to maintain payments.
- When F applied to top up the facility in October 2023, Mr K told it that F's turnover had increased to £85,000 over the previous 12 months. IWOCA says that at that stage F's credit file showed one late payment, but it didn't consider that to be a serious cause for concern.
- It saw no reason not to increase the credit limit, given that F had made its payments to IWOCA in full and on time since the facility started.
- It considers that Mr K, as F's director, would have known more than IWOCA about its future plans and projected turnover. It's clear that F wanted to borrow more, and it used the funds when they became available.

One of our investigators considered F's complaint, but didn't think it should be upheld. She said, in summary, that she thought that IWOCA had carried out reasonable checks, and that on the basis of those checks and the information provided by F, it had been reasonable of IWOCA to believe that the loan was affordable for F.

F didn't agree with the investigator's view, so the complaint's been passed to me.

### **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.

Mr K has provided detailed submissions in support of F's complaint. I've read and considered everything that he's provided, but in this decision I've focussed on what I consider to be the key issues, as permitted by our rules, and in keeping with our role as an informal dispute resolution service.

I'm sorry to disappoint Mr K, but I've decided not to uphold the complaint. I'll explain why.

Deciding whether to lend is a matter for IWOCA's commercial judgment. It's not for me to interfere with that unless I think it's treated F unfairly.

As IWOCA has commented, the loan agreement that F entered into was unregulated. This means that the rules governing the checks that it's appropriate to expect a lender to carry out are different from those governing what's expected in the case of a regulated credit agreement. There are no specific regulations with which IWOCA needed to comply. But in considering whether IWOCA treated F fairly, I've taken into account the Lending Standards Board's Standards of Lending Practice. Those aim to set benchmarks for good lending practice in the UK, including for business loans.

I'm satisfied that IWOCA carried out an assessment of F's ability to repay the borrowing, taking into account what Mr K had told it about F's financial position and the results of a credit search against F. I acknowledge that the checks weren't as detailed as Mr K believes they should have been. He's referred, for example, to F's accounts. But IWOCA didn't have those, and I wouldn't have expected it to ask for them. The credit search carried out in April 2023 showed no defaults or late payments. IWOCA accepts that by October 2023, when it agreed to increase the credit limit, F's credit file showed one late payment. But given what Mr K told it about F's financial position at the time, I don't consider that this ought to have led it to believe that F was unable to afford the lending.

Taking everything into account, I'm satisfied that IWOCA was entitled to rely on the assessment it carried out. And I consider that based on the information it had, it was reasonable of IWOCA to believe that F would be able to afford to repay the borrowing in a sustainable way and without incurring financial difficulty.

In hindsight, F's payments to IWOCA turned out to be unaffordable. But that doesn't mean that IWOCA should have realised that F wouldn't be able to afford the borrowing when it took out the facility. I accept that IWOCA would have realised that there was some degree of risk that the loan might become unaffordable for F in the future. But that's always the case when a loan is made, whether to a company or an individual.

I'm sorry my decision will come as a disappointment to Mr K. And I'm very sorry to hear of the stress that the situation is causing him. But for the reasons I've set out, I can't fairly uphold this complaint. Mr K has also complained in his personal capacity as guarantor of F's borrowing. I'll issue a separate decision on that complaint.

### **My final decision**

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask F to accept or reject my decision before 28 October 2024.

Juliet Collins  
**Ombudsman**