

## **The complaint**

Mr K complains that IWOCA Ltd treated him unfairly when it called in his guarantee of a loan made to his company.

## **What happened**

In April 2023 Mr K's company, which I'll refer to as "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 CCJ 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 wrote to Mr K to say that it had terminated F's facility and was now calling on his personal guarantee and indemnity. It warned him that unless the balance was settled by 17 March 2024 it might start proceedings and a County Court Judgment ("CCJ") might be issued against Mr K. It said the total amount owing was more than £21,000.

Mr K believes that IWOCA was irresponsible in lending to F and has acted unfairly in demanding repayment under his personal guarantee.

One of our investigators considered Mr K's complaint, but didn't think it should be upheld. She said, in summary, that IWOCA had carried out reasonable checks before lending to F, and didn't think it had treated Mr K unfairly when agreeing the lending.

Mr K 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.

I should start by saying that this complaint has been brought by Mr K as guarantor of F's loan. When reaching my decision, I can't consider IWOCA's decision to make the loan itself. F is a separate legal entity from Mr K, and I've considered IWOCA's decision to lend to F in a separate complaint.

The loan in this case was an unregulated commercial loan to a limited company. As guarantor of his business's borrowing, I'm afraid Mr K wasn't entitled to the same protections as he'd have had if he'd taken out a personal loan. There are no specific regulations with which IWOCA needed to comply. That said, I'd still have expected it to behave fairly and act in accordance with good industry practice.

In considering what constitutes good industry practice, I've considered 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. And they include provisions on the taking of personal guarantees by business lenders.

The Standards provide that lenders should tell the customer if security, such as a guarantee, is needed to support the borrowing and, if so, why. They should provide clear information to make the guarantor aware of their obligations under the agreement. The lender should make sure that the amount of the guarantee is appropriate to the amount borrowed, and should recommend that the guarantor seek independent legal advice.

I'm satisfied that IWOCA complied with the relevant Standards in this case. The guarantee wasn't unlimited. It was clear that it was for the amount borrowed under F's revolving credit facility with IWOCA. There was a box outlined in bold at the top of the first page of the guarantee. In the box it said:

*"IMPORTANT – You should seek independent legal advice before signing this guarantee and indemnity. You may have to pay amounts due under this Agreement instead of or as well as the Customer."*

When it asked for payment under the guarantee, IWOCA provided full details of the amount due.

It's common industry practice to take a guarantee where a loan is being made to a company. There are no rules requiring lenders to check that guarantors of business lending can afford the potential liabilities they are committing themselves to repay. And the Standards of Lending Practice don't say that any such check should be made.

IWOCA did, nonetheless, carry out a credit search against Mr K before taking the guarantee. It showed no defaults or late payments. Mr K has referred to detailed information shown on his credit report. But the type of credit search that IWOCA carried out, and which lenders commonly use, shows considerably less detail, and I'm satisfied that it didn't show anything which ought to have suggested to IWOCA that Mr K was struggling financially.

Based on the evidence I've seen, IWOCA carried out appropriate checks before agreeing to make the loan to F and there was nothing in the information that IWOCA had to suggest that there was any imminent danger of F being unable to afford the monthly loan repayments. Taking everything into account, I'm satisfied that IWOCA followed industry best practice, and I don't think there was anything in the information provided that ought to have flagged up to IWOCA that it would be unfair to take the guarantee.

I realise that being called on to pay F's debts will have been very distressing for Mr K. But I don't find that IWOCA did anything wrong by requiring the guarantee, or by asking Mr K for payment under it when F was unable to afford the repayments. I'm sorry to disappoint Mr K. I don't underestimate the stress that the situation has generated, and I sympathise with his position. But it follows from what I've said that I can't fairly uphold this complaint.

### **My final decision**

My final decision is that I do not uphold this complaint.

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

Juliet Collins  
**Ombudsman**