

The complaint

Mr K is unhappy with the way Close Brothers Limited trading as Close Brothers Premium Finance ('CB') treated him when he got into arrears on a rolling credit account, financing car insurance premiums.

What happened

In February 2023 Mr K took a rolling credit agreement with CB to fund the purchase of car insurance.

CB sent Mr K a letter on 8 December 2023, saying a direct debit was returned unpaid from his bank. It said this meant he was £1,351.98 in arrears. CB said Mr K needed to make payment by 28 December 2023. It also issued a default notice at the same time giving the same date of 28 December to settle the arrears.

Mr K spoke to CB on the phone several times but was unable to reach an agreement to repay the sum outstanding. He then complained. He said he didn't know about any missed payments. And he said his insurance policy had been cancelled, meaning he lost his no claims bonus and owed the broker money.

CB issued a final response at the start of January 2024. This said, in summary, that Mr K missed five payments in June, August, October, November and December 2023. CB explained that it didn't send Mr K letters when the first four payments were returned from his bank, which it should have. But, it explained the insurance cover continued, so it didn't think Mr K was too inconvenienced by this. CB also said Mr K would've been told about the missed payments from his bank.

CB explained the broker of the policy said he could repay the arrears by 15 December 2023. But, it said the funds weren't received, so the agreement was cancelled on 18 December 2023. CB said it had no involvement about the insurance policy itself, so Mr K would need to speak to the insurance provider about the outstanding balance and the no claims bonus.

CB said it had paid Mr K £100 to apologise for not sending the letters.

Mr K remained unhappy and referred the complaint to our service. He said his insurance policy was cancelled as CB didn't take payments. And he said this led to him losing his no claims bonus and receiving a £2,000 charge.

CB told our service that after discussing the arrears with Mr K around 8 December 2023 it had contacted the broker and asked for a payment extension, but this wasn't given and the broker said Mr K had to pay the full balance. CB said it attempted to arrange a suitable arrears repayment plan, but it had to adhere to the broker's instructions.

CB said it would pay Mr K an additional £250 to reflect what happened.

We let Mr K know about this offer but he didn't accept it. He said if he had been aware the account was in arrears he would've cleared them. He reiterated that he said he owed around

£2,000 to the broker of the insurance. And he said a reasonable offer would be around half of what he owed to the broker.

CB later explained to our service that when the credit agreement was cancelled, it reclaimed £1,525.64 from the broker, which was the balance of the finance agreement with no interest. It said if the broker was charging Mr K more than this, then it may have added charges. CB said it was for the broker to determine any shortfall with Mr K depending on the terms of the insurance policy.

Our investigator issued an opinion and explained, in summary, that she thought the offer from CB was fair. She said this was because Mr K was required to make the payments under the agreement but had explained there weren't sufficient sums in his account to cover the direct debits when they were due. And she said Mr K had benefit of the insurance policy even though payments had been missed.

Mr K disagreed. He said it was CB's fault that the policy was cancelled as it didn't tell him about the arrears. And he asked our investigator to listen to calls from the time when the arrears were discussed.

Our investigator explained she had listened to the calls between CB and Mr K, but these didn't change her opinion.

We also had some information from the broker about the process of what happens if a payment is missed under this agreement. It explained CB would attempt to retake a payment ten days after it failed. It said if this again failed, it would then set a 'last chance date' for ten days after this. The broker said it would then issue a cancellation warning on the policy.

As Mr K remained unhappy, the case was passed to me to decide.

I sent Mr K and CB a provisional decision on 13 March 2025. My findings from this decision were as follows:

Mr K complains about a rolling credit account. Entering into regulated consumer credit agreements such as this as a lender is a regulated activity, so I'm satisfied I can consider Mr K's complaint about CB.

What I need to consider in this case is whether CB treated Mr K fairly and reasonably when he got into arrears on the account, considering its obligations at the time.

I've firstly considered CB's contact with Mr K when he missed payments on the account. CB has explained that due to an error, it didn't send letters when Mr K missed the first four payments. It said he should've been aware of this anyway, because his bank would've let him know. Thinking about this, I don't think CB acted reasonably here. I'll explain why.

I've thought about CB's obligations under Section 86C of the Consumer Credit Act 1974. I appreciate this situation will likely not mean CB breached its obligations to provide Mr K with a notice of sum in arrears ('NOSIA'), given the date he took out the agreement. I say this as a NOSIA would be required "no later than the end of the period within which he is next required to give a statement under section 78(4) in relation to the agreement" and section 78(4) explains the period is "not more than twelve months".

But, that being said, I also need to consider what is fair and reasonable. And thinking about this, I don't think CB acted fairly by only telling Mr K he was in arrears when he had missed five payments and owed well over £1,000. I also don't think it's reasonable to say Mr K should've been aware through his bank.

So, considering this, I find CB should've done more to make Mr K aware of the situation sooner than it did.

I've then gone on to consider what happened when CB did contact Mr K about the arrears.

It's important to note here that I am only considering the actions CB took – not the broker of the insurance policy. It's also worth me politely reminding CB that it is the lender here and has entered into a regulated credit agreement. This means the associated obligations are its own, not the brokers. And it was also CB's responsibility to decide how to proceed in relation to the credit agreement when Mr K got into arrears, again not the brokers.

CB had various obligations at the time Mr K got into arrears on the agreement. These included what the Financial Conduct Authority ('FCA') sets out in the FCA Handbook in the Consumer Credit Sourcebook ('CONC').

When CB contacted Mr K in December 2023, he was five months in arrears under the credit agreement and CB had not previously let him know about any missed payments or arrears.

CONC 7.3.4 states:

"A firm must treat customers in or approaching arrears or in default with forbearance and due consideration."

CONC 7.3.4B states:

"When determining appropriate forbearance and treating the customer with due consideration, a firm must take into account the individual circumstances of the customer of which the firm is or should be aware."

CONC 7.3.5 goes on to give examples of how businesses could treat consumers in or approaching arrears. These include, under certain circumstances, "suspending, reducing, waiving or cancelling any further interest or charges", "allowing deferment of payment of arrears, accepting no payments, reduced payments or token payments for a reasonable period of time" and "agreeing a repayment arrangement with the customer that allows the customer a reasonable period of time to repay the debt".

CONC 7.3.6 states:

"Where a customer is in default or in arrears difficulties, a firm should allow the customer reasonable time and opportunity to repay the debt."

I've thought about what happened when CB spoke to Mr K in December about the arrears.

In summary, it only gave Mr K a very short space of time to pay back the outstanding balance. Mr K explained on the phone on multiple occasions this was going to be very difficult.

CB issued the default notice on 8 December 2023, which was the first time it contacted Mr K about the arrears. It then explained on the phone that the broker – who again was not who the obligations under the credit agreement fell to – would only accept full payments of the arrears by 15 December 2023, only a few days later. I find this was not fair or reasonable, nor does this meet CB's obligations under CONC.

CB had no conversation with Mr K about what his income and expenditure was and if he could afford to make repayments to the outstanding arrears. Despite this, Mr K on the phone

attempted to arrange a repayment plan for the outstanding balance – saying he could make payments of £255 on 15 December 2023, 2 January 2024, 12 January 2024, and 26 January 2024. But CB quickly said this was not acceptable, apparently without considering it.

Again, I'm satisfied this does not meet CB's obligations under CONC as set out above.

It's also worth explaining that I saw no consideration from CB about the fact that not exploring other options, and instead cancelling the finance agreement, would mean the termination of Mr K's insurance policy. I would've expected, given this might have had wide reaching implications for Mr K as presumably he would be unable to drive, that this would've been factored in to any conversation around the arrears on the account.

I've considered that CB said the broker of the policy wouldn't allow an extension or repayment plan. But to reiterate, the obligations under the credit agreement are CB's.

I've also considered that, as above, CB demanded payment of the arrears by 15 December 2023 and the agreement was cancelled by CB on 18 December 2023. But, the default notice issued to Mr K explained he needed to pay the arrears by 28 December 2023. So I find CB also breached the terms of its own default notice.

I've then thought about what would've happened had things gone as they should. It's very difficult to reach any firm conclusions here. I say this as, had CB let Mr K know about the missed payments earlier as I thought it should, it's possible the account would've closed anyway as Mr K has explained he was in financial difficulty at the time.

Mr K has said this situation directly led to him losing his no claims bonus on the policy, but as above I'm not sure this was most likely the case. The terms and conditions of the agreement under "missing payments" states "We may take steps to have Your insurance policy or policies terminated". If Mr K wasn't able to make up the initial arrears at the time, it's possible this would've happened anyway.

I also haven't seen evidence of Mr K's financial situation in December 2023 – so while CB should've had detailed conversations with him about his finances at the time, I don't know what the outcome of these conversations would've been.

Mr K also said the broker is charging him around £2,000, but I've not seen evidence of this, nor what any balance is for. It's also important to again note at this point that this decision is only about CB. My understanding is that Mr K had benefit of the insurance policy during the time he was in arrears, so he may wish to discuss any outstanding balance with the broker.

All of that being said, I do think Mr K has been caused significant distress and inconvenience because of what's happened. It must have been very distressing to realise that five payments had been missed and that he owed a significant amount of money. It's clear from the phone calls Mr K was upset, and I'm satisfied CB put him under pressure to pay the arrears in an unrealistic timeframe. At one point, Mr K explained he was going to try to extend his overdraft and borrow money from several friends to try to make some payments, which CB didn't question.

Because of this, I find CB needs to increase the amount paid to Mr K to reflect the distress and inconvenience to £500.

I haven't been provided evidence of what, if anything, has been reported on Mr K's credit file in relation to this agreement. But because CB breached the terms set out in the default notice by cancelling the agreement before the date given, and thinking about the fact it didn't consider allowing Mr K to repay the arrears over a reasonable time, I find it is not fair for Mr

K's credit file to record a default. So, if CB did report a default to the credit reference agencies, this needs to be removed.

I gave both parties two weeks to come back with any further comments or evidence.

Mr K didn't respond.

Moneybarn came back and explained having reviewed the case, it had "*credited (Mr K's) insurance broker with a credit agreement outstanding balance amount of £1351.98 on 28 August 2024 as a write off on behalf of (Mr K)*". So, it said it didn't think it should pay more compensation.

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 carefully thought about what CB said in response to my provisional decision.

I appreciate CB said it made a payment to the broker to pay off a balance. But, I haven't seen that this was an offer to put things right for Mr K in relation to this complaint.

As CB hasn't shown or explained why this balance was written off, I don't know if this was in relation to the distress and inconvenience caused to Mr K, or for another reason.

I also made no findings about this balance in the provisional decision. I have very little information about this, such as what was outstanding, any charges, or any other payments made towards the broker.

Thinking about this, I haven't seen enough to persuade me this fairly compensates Mr K for the issues explained in my provisional decision.

I've reconsidered all of the other information about the case. Having done so, I still think this complaint should be upheld. This is for the same reasons I explained in my provisional decision and set out above.

My final decision

My final decision is that I uphold this complaint. I instruct Close Brothers Limited trading as Close Brothers Premium Finance to put things right by doing the following:

- Pay Mr K £500 to reflect the distress and inconvenience caused*
- If one was added, remove the default from Mr K's credit file in relation to this account

*If CB has paid Mr K any funds already in relation to this, it can remove this figure from the amount due.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 25 April 2025.

John Bower
Ombudsman