Financial Ombudsman Service

complaint

Mr S complains that Gracombex Ltd trading as The Money Platform ("TMP") gave him loans that he couldn't afford to repay.

background

Mr S was given five loans by TMP between July 2017 and January 2018. Mr S successfully repaid his first four loans before the agreed date, but a balance remains outstanding on his final loan. A summary of Mr S's borrowing from TMP is as follows;

Loan Number	Borrowing Date	Repayment Date	Loan Amount
1	19/07/2017	29/07/2017	£ 500
2	03/08/2017	25/08/2017	£ 750
3	29/08/2017	27/10/2017	£ 1,000
4	17/11/2017	20/12/2017	£ 500
5	08/01/2017	-	£ 1,000

Mr S's complaint has been assessed by one of our adjudicators. He didn't think that TMP had done sufficient checks before agreeing any of the loans. And he thought that better checks would have shown TMP that Mr S couldn't afford the last three loans. So he asked TMP to pay Mr S some compensation.

TMP didn't agree with that assessment. So, as the complaint hasn't been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process. If Mr S accepts my decision it is legally binding on both parties.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've also taken into account the law, any relevant regulatory rules and good industry practice at the time the loans were offered.

TMP was required to lend responsibly. It needed to make checks to see whether Mr S could afford to pay back each loan before it lent to him. Those checks needed to be proportionate to things such as the amount Mr S was borrowing, and his lending history, but there was no set list of checks TMP had to do.

The Financial Conduct Authority was the regulator at the time Mr S borrowed from TMP. Its regulations for lenders are set out in its consumer credit sourcebook (generally referred to as "CONC"). These regulations require lenders to take "*reasonable steps to assess the customer's ability to meet repayments under a regulated credit agreement in a sustainable manner without the customer incurring financial difficulties or experiencing significant adverse consequences."* They define 'sustainable' as being able to make repayments without undue difficulty. And explain that this means borrowers should be able to make their repayments on time and out of their income and savings without having to borrow to meet these repayments.

So, the fact that the amounts borrowed and the interest paid might have been low in comparison with Mr S's income, or that he managed to repay most of the loans in full and before their due date, doesn't necessarily mean the loans were affordable for him and that he managed to repay them in *a sustainable manner.* In other words I can't assume that because Mr S managed to repay his loans that he was able to do so out of his normal means without having to borrow further.

TMP has told us about the checks it did before lending to Mr S. Before each loan it asked him for details of his income, and it verified what he said with a credit reference agency. And it asked Mr S for details of the rent he paid, before supplementing this with industry standard data on other living costs. It used that information to estimate how much money Mr S would have left over each month that he could use to repay any borrowing. And it did further checks on Mr S with the credit reference agency. Although I haven't seen the full results of those checks I'm not aware of there being any adverse information on Mr S's credit file that I think should have caused additional concerns to the lender.

The first loan that Mr S took was relatively large, but only formed around 10% of the income he declared to TMP. And his repayment appeared easily affordable based on what TMP had estimated his disposable income to be. So given this was the first time that Mr S had borrowed from TMP I think it was reasonable for the lender to base its assessment on the information it held. I don't think TMP was wrong to give this loan to Mr S.

Although the first loan was scheduled to be repaid in around a month, Mr S repaid it early, just 10 days after taking it out. But just four days later he asked to borrow again, increasing the amount of his borrowing by 50%. I think that behaviour might have caused some concern to TMP that Mr S's finances were under pressure. So as well as the checks it did I think it should have asked Mr S some very specific questions about whether he was already committed to repaying any other short term lending at the same time as his requested loan.

Mr S again repaid his loan early - this time around a week before it was due. And he asked to borrow again just a few days later. This time he asked to borrow even more than before and would now need to repay over £1,300 to TMP less than two months later. I think by now TMP should have realised that it was unlikely that Mr S's finances were as healthy as he'd previously said. I think TMP should have taken steps to independently check Mr S's true financial position.

And I think the same type of checks would have been appropriate before agreeing the last two loans. These were both taken shortly after the previous loans had been repaid. I have considered that the amount Mr S borrowed on his fourth loan was a lower than before, and that his final loan was repayable in three instalments. But I don't think that would be enough to give a lender confidence that a borrower wasn't facing any difficulties. By the time of the final loan Mr S had been borrowing from TMP, almost constantly, for nearly six months.

But although I don't think the checks TMP did from loan 2 onwards were sufficient, that in itself doesn't mean that Mr S's complaint should succeed. I'd also need to be persuaded that what I consider to be proportionate checks would have shown TMP that Mr S couldn't sustainably afford the loans. So I've looked at Mr S's bank statements, and what he's told us about his financial situation, to see what better checks would have shown TMP.

As I said earlier, at the time of loan 2, although I still think it was reasonable for TMP to base its affordability assessment on information that Mr S provided, I think it should have asked him some very specific questions about any other short term loans that he was already committed to repaying. But having looked at Mr S's circumstances at the time I still think, even after considering the additional expenditure, TMP would have concluded the loan was affordable for Mr S. So I don't think TMP was wrong to give this loan to him either.

From loan 3 I think TMP should have independently checked Mr S's finances. Had it done so it would have seen that Mr S was borrowing ever increasing amounts from a number of other short term lenders – money that he needed to repay at the same time as making his repayments to TMP. And it would have seen that Mr S was using that money to support an escalating amount of spending on what appear to be online gambling transactions. Mr S has told us that at the time he had developed a chronic gambling problem.

If TMP had done what I consider to be proportionate checks from the time of loan 3 onwards it would have seen that Mr S couldn't afford to repay any additional borrowing in a sustainable manner. So, as a responsible lender, I don't think it would have agreed to give Mr S these loans. TMP needs to pay Mr S some compensation.

putting things right

I don't think TMP should have agreed to lend to Mr S after, and including, the loan that he took on 29 August 2017 (loan 3). So for each of those loans TMP should;

- Refund any interest and charges applied to the loans.
- Add simple interest at a rate of 8% per annum to each of these amounts from the date they were paid to the date of settlement*.
- Remove any adverse information recorded on Mr S's credit file in relation to the loans.

*HM Revenue & Customs requires TMP to take off tax from this interest. TMP must give Mr S a certificate showing how much tax it's taken off if he asks for one.

Mr S still owes TMP some of the principal balance he borrowed on his final loan. TMP may deduct this from the compensation that is due to him. But, to be clear, that outstanding balance should be recalculated to remove any interest and charges, but taking account of any repayments Mr S has made on that loan as though they were applied against the principal sum borrowed.

my final decision

My final decision is that I partly uphold Mr S's complaint and direct Gracombex Ltd to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 16 February 2019.

Paul Reilly
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