

complaint

Mr and Mrs R complain that Microcredit Limited did not allow them to repay their debts at an affordable monthly rate when they began experiencing financial difficulties.

background

Mr and Mrs R took out separate payday loans in February 2012. They did not repay their loans on the due date but contacted Microcredit a day later to say they were in financial difficulty and had entered into a debt management plan with a third party. Microcredit said it would not deal with any third parties. Instead, it said that Mr and Mrs R could make part payments using its website, but refused to freeze interest or charges at that stage.

Mr and Mrs R also say they completed Microcredit's own hardship form in April 2012 and sent it. Microcredit asked them to fax the form otherwise the processing of their application would be delayed. Mr and Mrs R did not fax the form, as they say they do not have access to fax machines. Microcredit also denies receiving the posted form.

Mr and Mrs R's accounts defaulted in July 2012 with Mr R owing over £2,000 and Mrs R owing nearly £1,500. Although Microcredit has since agreed to remove substantial debit attempt fees and its debt recovery fee from each outstanding balance, it is subject to the condition that Mr and Mrs R repay the remaining amounts under a payment plan through its 'debt recovery partners'.

our initial conclusions

Our adjudicator upheld the complaint. She concluded that Microcredit had not complied with the Office of Fair Trading's debt collection guidance or the Finance and Leasing Association's Lending Code, which state that businesses should treat customers in financial difficulty sympathetically and positively and act with forbearance. In particular, she concluded Microcredit -

- refused to engage with Mr and Mrs R's debt management representative without justification, contrary to the OFT's guidance;
- continued to apply charges and interest that increased Mr and Mrs R's outstanding debt substantially;
- continued to send debt collection letters and threaten legal action, despite Mr and Mrs R's attempts to engage with the business.

She recommended that Microcredit should:

- allow Mr and Mrs R to set up a payment plan through their debt management representative;
- remove all charges from their outstanding balances and any interest applied from the date that Microcredit knew Mr and Mrs R were in financial difficulty; and
- pay Mr and Mrs R each £100 compensation for the distress and inconvenience caused by Microcredit's unsympathetic approach to their problem.

Microcredit disagreed and maintained its refusal to remove interest and charges other than debit attempt and debt collection fees. It argues all other charges are in accordance with the terms and conditions Mr and Mrs R agreed to when they took out their loans. It also

maintains that it has never received any information from Mr and Mrs R about their financial difficulties.

my provisional findings

In my provisional decision issued in November 2013, I explained why I was minded to reach a different conclusion to that of the adjudicator. I invited both parties to let me have their further comments and evidence by 31 December 2013. Microcredit has accepted my provisional decision. Mr and Mrs R emailed this service on 12 December. They said they had attached their income and expenditure details. However, the email contained no attachments.

This service has tried to contact Mr and Mrs R by telephone to ascertain why the information they say they have sent on more than one occasion has not arrived by any method they say they have used, including post. However, it has not been possible to speak to them.

my final decision

In the absence of any new evidence from Mr and Mrs R, and having considered everything that has been said and provided by the parties to decide what is fair and reasonable in all the circumstances of this complaint, my decision remains the same. I therefore set out my findings again below.

It is not disputed that Mr and Mrs R contacted Microcredit one day after the payment due date to say they had entered into a debt management plan to pay their other creditors.

Whilst Mr and Mrs R say they then sent documentation to Microcredit confirming this, there is no evidence of this. There is also no evidence that Microcredit's hardship form was sent.

Mr and Mrs R say they sent correspondence by recorded delivery, but have not provided proof of this. Nor have they provided copies of the correspondence they say they sent.

This service has also asked Mr and Mrs R to provide supporting information on three occasions before my provisional decision was issued. No information has been forthcoming.

In my view, it was not unreasonable for Microcredit to ask for evidence of Mr and Mrs R's financial hardship and inability to repay the loan. As Mr and Mrs R have not provided any, I see no reason to direct Microcredit to waive interest charges, which have now been frozen in any event. I also do not intend to ask Microcredit to remove the two initial missed payment fees it has charged. My decision might have been different if Mr and Mrs R had demonstrated that they had promptly provided some evidence of their financial difficulties.

Whilst I do not agree with Microcredit's use of the continuous payment authority, since Mr and Mrs R referred their complaint to this service, it has agreed to remove debit attempt fees. It has also agreed to waive its debt collection charges. This reduced Mr R's outstanding balance to £1,340 and Mrs R's balance to £710. Microcredit also says that Mr and Mrs R may repay their outstanding balances under a payment plan with its debt recovery partner.

For these reasons, I do not ask Microcredit Limited to reduce Mr and Mrs R's outstanding balances further, by waiving interest or other charges, other than those it has already agreed to remove. As Microcredit agrees that Mr and Mrs R may make payments under an

affordable repayment plan I would urge them to contact Microcredit's debt recovery partner to agree repayments, if this has not already been done.

This is my final decision.

Athena Pavlou
Ombudsman