

## **The complaint**

A company which I'll call 'P' complains that IWOCA Ltd lent to them irresponsibly.

The complaint is brought on P's behalf by their director, Mr H.

## **What happened**

P told us:

- In May 2021, they applied for a flexi-loan with IWOCA for £4,000 over a term of 12 months. This borrowing was supported by a personal guarantee from Mr H.
- In November 2021, they applied to increase their credit limit to £7,000.
- In January 2022, they contacted IWOCA to explain they were in financial difficulty and believed that the lender had lent to them irresponsibly.
- They continued making their loan repayments, but they were still struggling financially and IWOCA didn't do anything to support them. They applied for further borrowing in June and October 2022 and IWOCA lent this to them despite being aware in January 2022 that they were struggling financially.
- In November 2022, they missed their repayment and then struggled to make any further repayments and their loan was terminated by IWOCA in February 2023.
- They are still struggling financially and IWOCA is pursuing them and continuing to add interest and charges to their loan which they can't afford. They want IWOCA to stop adding the interest and give them some time to catch up on their repayments.

IWOCA told us:

- P's loan was an unregulated business loan and therefore it wasn't obligated to carry out affordability checks. However, it did review both P and Mr H's credit files to check the loan was affordable in line with good industry practice.
- After P had complained in January 2022 that their loan had been lent irresponsibly, they continued to make their repayments and didn't tell it that they were struggling.
- P had applied for further borrowing in June and October 2022. Both times it had checked both the company's and Mr H's credit file, along with the information provided by P in their applications. It hadn't seen any reason not to provide the borrowing.
- It had frozen interest on P's account whilst they were making arrangements with the collections team.

Our investigator didn't think our service could consider the part of P's complaint about the increase in their credit limit as they hadn't brought their complaint to us within six months of the date of the Final Response Letter ('FRL') issued in January 2022.

However, she thought our service could look at any increases from January 2022 onwards, when P made IWOCA aware that they were in financial difficulty. Our investigator reviewed this part of P's complaint, but she didn't recommend it be upheld. She said that the top-up finance granted by IWOCA in June and October 2022, hadn't increased P's credit limit

further than the £7,000 it had granted in November 2021. She said that P had continued to make their repayments in full and on time during this period and IWOCA had shown that it had reviewed both P and Mr H's credit files and checked the affordability. So, she didn't think IWOCA had done anything wrong.

P didn't agree. They said it had been difficult for them to make the repayments after they'd made IWOCA aware they were in financial difficulty, and they'd been regularly contacting the lender to say they were still struggling.

Our investigator said that she'd reviewed the calls between P and IWOCA as part of her investigation, but there was no evidence of any calls between January and November 2022. So, she didn't think IWOCA were aware of P's financial difficulties at that time. As an agreement couldn't be reached, the case has been passed to me to decide.

### **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.

Having done so, I've decided not to uphold it. I'm sorry to disappoint Mr H as I know he feels strongly about P's complaint, but there's not much more I can add to what our investigator has already said.

As neither party has disputed that the complaint about the lending increase to £7k in November 2021 hasn't been brought to our service in time, I won't comment on this further. Instead, I'll focus my decision on what happened from January 2022 onwards.

P says that IWOCA lent to them irresponsibly because they'd made the lender aware they were in financial difficulty from January 2022 onwards. Neither party disagrees that P shared this information, however, IWOCA say that it did take P's circumstances, including that they said they were in financial difficulty into account before lending.

Firstly, I need to make clear to P that as they entered into an unregulated credit agreement with IWOCA, the rules around affordability are different to a regulated agreement. So when considering if IWOCA has treated P fairly, we take into account what would be considered good industry practice, for example guidance from the Lending Standards Board.

Therefore, I've looked at the information IWOCA reviewed before agreeing to lend to P in June and October 2022, and I think this was reasonable. I acknowledge that P told IWOCA they were struggling in January 2022, and I can see that the lender requested three months bank statements and an income and expenditure report for the company at that time. However, I've also seen that after their request for a reduced repayment at this time was declined and they were made aware that their loan would default if they didn't meet the repayment, they continued to make their loan repayments in full, and actually overpaid.

So, I've thought about the interactions between P and IWOCA after the company said they needed help initially. And whilst I recognise P didn't need to repeatedly tell IWOCA it needed support I also have to take into consideration what the lender would have seen at that time. I've listened to the call between P and IWOCA in March 2022 when P had an issue with their card, and they didn't say they were in financial difficulty. There were no further discussions between the parties after this until P applied for further borrowing in June 2022. As the loan account with IWOCA didn't go into arrears and both Mr H and P's credit files didn't show signs of distress in June 2022, I can't fairly say IWOCA behaved unreasonably by agreeing to P's additional lending request at this point.

So, I've considered if P's financial position was different in October 2022. Although there is a slight deterioration in P's and Mr H's credit file, in terms of an account going one month into arrears. IWOCA has told us that it saw that P's unsecured credit position has improved by around £5,000. It also told us that at this point, P had maintained 15 consecutive

repayments, and after speaking to its staff about the additional lending P had been asked to make higher repayments before this was agreed to demonstrate it was affordable.

P also didn't say that they were in financial difficulty at this point, but said they needed the additional lending for new equipment, which I'm satisfied was a plausible reason for the loan. I can see that P didn't make their direct debit payment in September 2022 which may have been a cause for concern. However, P made the payment manually a day later so I think it was reasonable for IWOCA to think this may be a card issue as that had happened previously, and P didn't say that they weren't able to meet their repayment at that time. I've also seen IWOCA's case notes, and I can see that before it granted P further lending, it asked them to show that they could meet the higher loan repayment. P made the higher repayment as requested straight after and the further lending was granted on this basis. So I think IWOCA did undertake checks to see if P could meet the repayments and it was satisfied that they could.

From IWOCA's case notes, and I can also see that P didn't make their loan repayment in November 2022, immediately after the loan increase was granted. However, P told the IWOCA that this was because their business hadn't returned to the levels they were expecting. I acknowledge that P's lending became unaffordable shortly after they'd taken out the loan increase. However, I can't fairly hold IWOCA responsible if P declared an income on the loan application which was in line with their previous turnover, but they subsequently didn't receive this. I'm satisfied that IWOCA reasonably believed that P would be able to repay the borrowing it took out in June and October 2022.

I'm sorry to disappoint Mr H as I know he feels strongly about P's complaint, but I don't think IWOCA has done anything wrong. I acknowledge that this has been a difficult time for Mr H, and that he has told us that P is in financial difficulty and unable to make the required repayments on the loan. I would encourage Mr H to contact IWOCA to discuss an affordable repayment arrangement as the lender should treat P fairly.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask P to accept or reject my decision before 25 March 2024.

Jenny Lomax  
**Ombudsman**