

The complaint

Miss S complains that FUND OURSELVES LIMITED (“FOL”) treated her poorly when she got into arrears, it offered no support and she feels she has been ignored.

Miss S is not content that FOL has applied a default to the account, and the way that it corresponded with her about the arrears and the default. Miss S wants it removed from her credit file.

What happened

FOL is a peer-to-peer (“P2P”) lending platform and it handles direct lending between the individual investors and the loan applicants. It offers short term loans.

In May 2022, Miss S took a short term loan with FOL for £400 repayable in four instalments of £199.20 each month. Miss S paid on 12 June 2022 and again on 13 July 2022 (one day late) but did not pay the final two instalments. FOL has told us that the August 2022 repayment was postponed for a few days at Miss S’ request. But that instalment was not paid. A default was applied in December 2022 and since February 2023 Miss S has been paying a debt collector £5 a month. The loan remains outstanding.

In August 2022, Miss S complained that FOL had lent to her irresponsibly. This was investigated by FOL and by the Financial Ombudsman Service and it was not upheld. The complaint was closed following a final decision by an Ombudsman colleague and so I am not able to look at that complaint again.

This decision covers the complaint points Miss S raised with FOL on 19 January 2023 which was referred to us as a new complaint in August 2023.

In January 2024, FOL responded to us about these complaint points. One of our investigators looked into them and assessed the evidence she had from both parties. She did not think that FOL had done anything wrong and she did not consider that the default had been applied to the account incorrectly.

Miss S disagreed and our investigator asked FOL for all call recordings and/or copy transcripts of calls between it and Miss S. She planned to look into further issues for Miss S. But copies of the calls were not available.

Miss S asked that an ombudsman reviews her complaint. It was 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 considered all aspects and having reviewed all the evidence we have received from both parties, I have decided not to uphold the complaint. I explain in the following pages. I have used headings to sub-divide Miss S’s concerns into separate paragraphs.

The default applied to the account

The arrears notice Miss S has accepted she received in October 2022 gave details of what was outstanding and what Miss S had to do to put things right. It included a Financial Conduct Authority (FCA) Arrears Information Sheet which would have signposted Miss S to options available to her. I've read a version of that FCA Information Sheet for P2P agreement arrears. There's a lot of information and help on that sheet.

Miss S is critical of the indication within that arrears notice that FOL was offering her a 12 month loan as a solution. I've received a copy of the loan agreement and I've read that part of the arrears notice which says that FOL had discretion to '*reclassify*' her loan as a 12 month loan. It refers to Section 7 of the loan agreement.

I've requested and received a copy of the loan agreement with Miss S and clause 7 does not state that FOL could reclassify the loan as a 12 month loan. Most of Section 7 relates to the payment of the loan by Continuous Payment Authority (CPA). So, I do think that the arrears notice may have referred to an incorrect loan section.

That being said, I don't interpret the wording on the arrears notice as an offer of a 12 month loan to Miss S as a solution. So, although this arrears notice may have included a paragraph which may not have been referring to the right section of the agreement, I do not think that Miss S' interpretation of it was quite right either. So, I do not consider that this was intended by FOL to mislead her and I do not think it was designed to have the impact Miss S has described.

There's email copy correspondence between Miss S and FOL in which Miss S approached FOL to obtain bank details so that she could make a payment towards the outstanding loan. That was on 10 November 2022. FOL offered help and advice relating to a repayment plan and invited Miss S to complete a series of questions surrounding her income and expenditure (I&E). FOL warned Miss S as to the impact that deviation from any repayment plan may have on her credit file. Following Miss S' request, FOL provided Miss S with the bank details on 17 November 2022 which was also a date Miss S had logged into the FOL on-line account.

From the records I've seen no payment was made to FOL by Miss S in November 2022.

An email Miss S says she received from FOL dated 29 November 2022 is unfortunate in that it refers to Miss S having referred to a Notice of Default when that email pre-dated the actual Notice of Default which was sent to her on 7 December 2022. But the importance of that email on 29 November 2022 was clear – this was her last chance to put things right for the account. No payments had been made to FOL since July 2022.

So, although it may have been out of sequence, which is not ideal, in light of the previous email correspondence surrounding entering a payment plan then I do not think that Miss S would have been misled.

The Notice of Default was subsequently sent on 7 December 2022. Miss S says she never received it. But having thought about this carefully and using the evidence that FOL has provided that it was sent to Miss S' last known address, then I am satisfied that the properly addressed Notice of Default was sent and to the same address to which it had sent the arrears notice. Miss S has acknowledged receiving that arrears notice. FOL is not required to ensure that the Notice of Default is received – just that it has been sent. Miss S not receiving it does not lead me to conclude that FOL has done anything wrong here.

The Notice of Default for the P2P lending agreement has been sent to me. It said that Miss S

owed FOL £356.60. It became payable on 7 December 2022 and Miss S had 14 days from the date of the Notice to bring the account up to date or to respond to FOL to discuss repayment options. It listed the sums owed. And in block and bold capitals it warned that Miss S would be reported to the Credit Reference Agencies and a Default applied to the account if she failed to do that. Reference was made to the FCA Default Information Sheet provided with the Notice. I have read a version of that sort of FCA sheet.

No payment was received and I consider that the default was correctly applied. I do not uphold this part of Miss S' complaint.

The outstanding complaint with the Financial Ombudsman Service

The irresponsible lending complaint Miss S had brought against FOL had commenced in August 2022, around the time that instalment three on the loan was due to have been paid by Miss S. It was still being investigated. The investigator issued a non-uphold view on 6 April 2023 and Miss S received a decision with the same outcome in late May 2023.

I've seen no evidence from either party to confirm that during the complaint the loan account was suspended. It is not an automatic occurrence. For there to be a 'suspension' arrangement, there ought to have been a specific agreement between Miss S and FOL. In the absence of any evidence to show me this then I do not consider FOL did anything wrong.

Help when FOL knew she could not afford the instalments

We asked for account notes surrounding this loan account but there are none that FOL could send. We asked for copies of any recorded calls between it and Miss S and none were able to be sent to us. They were deleted after 90 days in line with policy. I don't find that unreasonable.

We've received no evidence or copy correspondence from Miss S to demonstrate that FOL failed to assist her or that she contacted it for help and received none. Miss S has referred to having spoken to FOL and/or received a letter from it offering help in the form of another loan. But we've no evidence of this either from Miss S or from FOL.

So, I've looked at the evidence I do have which includes information held on the other complaint file we have for Miss S and FOL surrounding the irresponsible lending issue.

I note that the final response letter (FRL) for the irresponsible lending complaint dated 17 August 2022 refers to that part of Miss S' complaint to FOL in August 2022 that she could not afford the loan. FOL said that if she was experiencing financial difficulty it could assist her by setting up a new payment plan. It invited her to send it some income and expenditure details (I&E). It added:

'Please include your preferred repayment date, the amount you are able to repay per month and the date you would like the repayments to start. Please complete the income and expenditure form and send it back to us as soon as possible as your account will remain in arrears and our normal collections process will continue in the meantime.'

At the bottom of that FRL were website hyperlinks and telephone numbers for three advice services relating to financial issues and help with debt. It was reasonable for FOL to have offered help and to have signposted to third parties but I don't know if Miss S took up any of these offers of support.

I've already outlined earlier in this decision the offer of help FOL extended to Miss S in

November 2022.

So, I do not uphold the part of Miss S' current complaint that she received no offers of help and assistance.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 1 October 2024.

Rachael Williams
Ombudsman