

## **complaint**

Mrs G complains that Microcredit Limited did not respond appropriately to her situation after she contacted it to say that she was experiencing financial difficulties. She would like Microcredit to cap her liability to the loan amount plus one month's interest. She would also like additional compensation.

## **background**

Mrs G entered into a running-account credit agreement with Microcredit in November 2012. At the beginning of January 2013, she applied for a loan of £100. The loan was deposited into her account less Microcredit's transmission fee of £19.50. Mrs G agreed to repay the loan plus interest totalling £127 at the end of the month, but did not do so.

She wrote to Microcredit in mid-February to explain that she was in financial difficulty and had contacted a third party for debt advice. With her letter she included a summary of her income and outgoings, which included a number of other short-term loans. She offered Microcredit £30 per month and included a postal order for this amount. She also asked the business to freeze interest and charges. A further postal order payment was sent the following month. Mr G, who represents his wife in this complaint, says Microcredit has refused to accept his wife's payments and applied excessive charges.

In response to the complaint, Microcredit said that it could not accept payments by cheque. The loan agreement states that payments can only be made using a debit card or Ukash vouchers. Microcredit also said that Mrs G had not provided any information that her financial difficulties were unforeseen and that she had taken out the loan with the intention of repaying it on the due date. Microcredit gave Mrs G three options:

1. To pay a reduced settlement amount in a single payment over the phone by debit card;
2. A settlement plan for £282 under which Mrs G would be required to make monthly payments of any amount and ultimately clear the loan by the expiry of 120 days from the contractual due date;
3. To pay £382 under a repayment plan through Microcredit's debt recovery partner, which is the sum including interest and charges due under the agreement until the default date, less payments made by Mrs G. Under this option a default would be marked on Mrs G's credit file.

As Mrs G did not accept any of these options, Microcredit continued with its collection process.

## **our initial conclusions**

The adjudicator did not recommend that the complaint should be upheld. He concluded that Microcredit had reasonably applied interest and charges up to 17 February 2013. He also concluded that Mrs G had not suffered financial loss, as her postal order payments were set off by the successful chargebacks that she instructed her bank to carry out.

Mrs G did not agree with the adjudicator's assessment.

## **my provisional decision**

In my provisional decision issued in May 2014, I explained why I was minded to uphold Mrs G's complaint in part. I invited both parties to let me have their further comments and evidence.

Mrs G responded with a number of questions which I shall address in this final decision.

Microcredit has repeated that it asked Mrs G to provide evidence of unforeseen financial difficulty. It also considers contractual charges must be allowed up to 17 February 2013 because it was not aware that Mrs G was in financial difficulty before that date. Finally, it does not agree that compensation is appropriate when a 'long term payment arrangement opportunity' was made available.

### **my findings**

I have considered all the available evidence to decide what is fair and reasonable in all the circumstances of this complaint. Having done so, my decision remains the same. I have set out my findings again below, addressing the parties' questions and further representations where appropriate.

Mrs G contacted Microcredit in February 2013 with evidence that she had sought advice from an independent not for profit advice agency. Microcredit acknowledged the information provided about her financial circumstances and said that it would forward it to its 'Hardship Team'. However, it refused to consider decreasing its charges without 'supportive documentation regarding unforeseen financial difficulties'.

As I said in my provisional decision, I am not sure what evidence it expected Mrs G to provide. Microcredit itself was under an obligation to carry out an appropriate affordability assessment before it agreed to grant the loan to Mrs G. Therefore, I assume that it was satisfied that the loan was affordable based on the information it obtained from Mrs G. It has not provided any evidence that Mrs G provided false information at the time of her application which it relied on. Nor did it challenge the validity of the information she provided in February 2013 against the information she provided at the time of her application.

For these reasons, I am satisfied there is no evidence that Mrs G took out the loan in bad faith. I am also satisfied that she was in financial difficulty when she wrote to Microcredit on 17 February 2013. At that point, I consider that Microcredit ought to have considered freezing interest and charges in accordance with regulatory guidance to treat customers in financial difficulty with forbearance and consideration. This is also in accordance with commitments it has given to deal with cases of financial difficulty positively and sympathetically and to do what it can to help customers manage what they owe.

Microcredit's response left Mrs G with little option beyond defaulting on the loan, or agreeing to pay a lump sum she did not have at the time to clear the debt. On the other hand, I consider that Mrs G had shown a willingness to enter into an affordable payment arrangement to repay her debt, which Microcredit did not properly address. Whilst I do not agree that Microcredit was obliged to accept postal order payments if it does not have the facilities to cash these, I am satisfied that Mrs G's payments demonstrated that she intended to repay her loan at a reasonable rate.

In addition, although Mrs G withdrew the continuous payment authority and successfully arranged for three payments taken by Microcredit to be charged back, I do not think this

detracts from the above. Mrs G's actions were understandable in the context of Microcredit's aggressive collection activity.

Microcredit has provided details of 102 attempts to take money from Mrs G's account between the end of January 2013 and the end of April 2013. Microcredit made 17 unsuccessful debit attempts before the first authorised payment of £15 and a total of 27 unsuccessful attempts before 17 February 2013.

The number of unsuccessful attempts made by Microcredit before 17 February 2013, including for relatively small amounts of £15, should have alerted Microcredit to the possibility that Mrs G was in financial difficulty. I do not think it should have persistently tried to debit Mrs G's account after the initial attempts failed. Furthermore, Microcredit should not have gone on to make over 70 more debit attempts after receiving Mrs G's letter. The charges applied for each unsuccessful attempt also added significantly to Mrs G's debt. For these reasons, I do not agree that it would be fair or reasonable for Microcredit to charge fees for unsuccessful debit attempts beyond 3 February 2013.

Microcredit may apply the contractual late payment fees of £25 and £55 chargeable on 1 and 3 February 2013, respectively. It may also apply interest up to 17 February 2013. This is because Mrs G had not contacted Microcredit before this date to explain why she had missed her contractual repayment date. However, it should not, in my view, have applied a third late payment charge in March 2013.

In light of what I have said above, I consider Mrs G's liability should be capped at £254. This is made up of the amount she borrowed of £100, plus £44 (44 days interest until 17 February 2013 at 1% per day), plus £25 and £55 (late payment fees), plus £30 (first six unsuccessful debit attempts before 3 February 2013).

In addition, I do not think it was fair to allow the account to proceed to default given Mrs G's willingness to make payments under a payment arrangement. Microcredit should have engaged with her offer of repayment under an affordable repayment plan. Therefore, whilst Microcredit can report arrears until the date that Mrs G offered to pay under an arrangement, it should remove any default it has registered on her credit file. Microcredit must inform Mrs G when it has done so.

I also find that Mrs G has been caused some distress and inconvenience because of Microcredit's refusal to consider her reasonable payment proposal and its multiple debit attempts, including when it was aware of her circumstances. I do not agree that a 'long term payment arrangement opportunity' was made available at the appropriate time. Therefore, I award £75 compensation, which I consider to be fair in all the circumstances. Mrs G has indicated that she would like this to be paid to her so that she can put it towards repayment of all her debts.

Finally, although Microcredit was not required to cash Mrs G's postal orders, it ought to have returned these to her promptly so that she could obtain a refund from the Post Office. Unless it does so within 28 days of my decision, it must also deduct the value of the two £30 postal orders from the amount outstanding.

### **my final decision**

For the reasons given, I uphold Mrs G's complaint against Microcredit Limited in part. I direct Microcredit Limited to do as follows:

1. Cap Mrs G's liability to £254;
2. Remove any default registration from Mrs G's credit file and inform Mrs G when it has done so;
3. Return Mrs G's postal order payments within 28 days of this decision or reduce Mrs G's liability from £254 to £194;
4. Pay Mrs G £75 compensation for distress and inconvenience;
5. Allow Mrs G to make repayments under an affordable payment arrangement.

Athena Pavlou  
**ombudsman**