

The complaint

Ms K has complained that Loans 2 Go Limited (“L2G” or “the lender”) was irresponsible to have agreed credit for her.

What happened

L2G provided Ms K with two loans, one in April 2016 and a second in April 2017. The first was for £1,500 to be repaid over three years at £207 a month with a total repayment of £7,440. The second loan was also for an amount of £1,500 repayable over 12 months at £290 a month, with a total repayable of £3,480 (figures rounded).

These were ‘log book’ loans, in other words they were granted on the basis that Ms K provided L2G with a bill of sale for her car. This meant that if Ms K didn’t make her loan repayments L2G could potentially recoup its losses through the sale of the vehicle.

I understand Ms K repaid both loans early. She’d repaid her first within ten months and her second within four months. Ms K said that if L2G had carried out a proper affordability assessment it would not have agreed to lend to her on either occasion.

One of our investigators looked into Ms K’s complaint and recommended that it be upheld because they concluded L2G had lent irresponsibly. They recommended L2G refund the payments Ms K made above the original amounts she borrowed along with compensatory interest. They also recommended L2G remove any adverse information about the loans from Ms K’s credit file.

L2G didn’t agree with this recommendation. It said that it checked Ms K’s credit file, considered her existing commitments before lending to her and that it wasn’t unusual for applicants to have an impaired credit record. L2G also said that it saw nothing in its assessment to warrant further checks and that Ms K had enough disposable income remaining to afford her second loan. L2G also pointed out that Ms K maintained perfect account conduct on each loan, made her repayments on time and settled both agreements early.

L2G asked for the complaint to come to an ombudsman to review and resolve. I issued a provisional decision on 22 December 2021 explaining why I was minded to uphold Ms K’s complaint. Neither Ms K nor L2G said they had any further comments or new information to add following receipt of my provisional decision.

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 and as it seems both parties have accepted my provisional decision I see no need to depart from my initial conclusions. For completeness I will set out my reasoning and conclusions again in this final decision.

Before agreeing credit for Ms K L2G needed to check that she could afford to meet her repayments sustainably, in other words out of her usual means without having to borrow further and without experiencing financial difficulty or other adverse consequences, such as not being able to meet existing commitments. The checks needed to be proportionate to the nature of the credit and Ms K's circumstances. The overarching requirement (PRIN 2.1.1R 6) was that L2G needed to pay due regard to Ms K's interests and treat her fairly. CONC 2.2.2G said "*targeting customers with regulated credit agreements which are unsuitable for them, by virtue of their indebtedness, poor credit history, age, health, disability or any other reason*" would contravene this principle.

L2G provided this Service with the information it relied on in making its lending decisions. This included Ms K's application forms, her payslips and her credit file information. I haven't come to any conclusions about whether L2G's assessment was proportionate on these occasions or whether it ought to have carried out further checks before agreeing to lend to Ms K. This is because I find that L2G ought to have known, or reasonably suspected, from the information it did have that Ms K wasn't going to be able to repay further credit sustainably and so should not have agreed to lend to her.

The information L2G had at the time of Ms K's first loan showed that:

- she was earning approximately £1,100 a month comprising wages and pension;
- she was paying £786 on living costs and debt repayments each month, leaving her a disposable income of £284;
- her mortgage payment as shown on her credit file was £493. Ms K said she paid £150 of this and her son paid the rest;
- had successive missed payments and arrangements to pay on her mortgage in the last 12 months and it was recorded as delinquent;
- had over £14,000 of existing debt (excluding her mortgage) and was paying £220 each month towards this, including payments to a debt collector;
- had other defaults and arrears on her credit file, including short term loans some of which she'd said she'd taken out for her son;
- had a history of borrowing short term credit;
- was borrowing for 'family commitments';
- would need to spend 19% of her income meeting the loan repayments of £207 for three years; and
- would potentially be paying a combined amount of £427 a month on her debts, almost 40% of her income.

L2G's income and expenditure assessment for Ms K's first loan showed that she would have less than £100 a month left after meeting her repayment. Her mortgage was in her sole name, and although she said her son helped with this and other priority bills, such as council tax and utilities, she also said that she had taken out credit for him which her credit file showed was not being repaid, including short term loans and mail order accounts. If Ms K needed to meet her full mortgage commitment in any month she would not be in a position to cover both this and her repayments towards a new loan.

Furthermore, L2G was required to do more than assess Ms K's ability to repay the credit – it needed to check whether there was a risk to her be able to do so without experiencing adverse consequences. I can accept what L2G said about it not being unusual that its applicants might have some adverse information on their credit file. However, in Ms K's case, the information showed that she wasn't managing her significantly high debt levels, including priority debt, without difficulty. I think this should have raised a serious concern for L2G that Ms K would struggle to repay a new loan and further credit would simply add to her indebtedness.

I think these circumstances together with Ms K's recent use of expensive short term credit were likely indications of an ongoing financial need. Furthermore, the amount Ms K would need to repay relative to her income was significant, especially considering her existing credit commitments.

L2G said that Ms K met her repayments for these loans without difficulty. I've reviewed the contact notes it provided. The record shows that Ms K's payments for this loan were declined and required different payment information or a late payment each month. She missed a payment in November 2016, some seven months after taking out her first loan, and a default letter was produced.

Altogether, I don't think that in this case Ms K managed to repay her loan without difficulty. I think this was foreseeable from the information L2G had, and I've concluded that it was irresponsible to have agreed this first loan for Ms K.

The information L2G had at the time of Ms K's second loan showed that she was earning £1,121 a month and:

- was paying £734 on living costs and debt repayments each month, leaving her with a disposable income of £387 a month;
- had over £11,000 of existing debt and was paying £195 each month towards this, including payments to several debt collectors and a short term lender;
- her mortgage was still showing as delinquent with successive missed payments in the previous six months;
- she would need to spend 26% of her income meeting the loan repayments of £290 for 12 months; and
- would potentially be paying a combined amount of £485 a month on her debts, about 43% of her income.

L2G's income and expenditure assessment for Ms K's second loan showed that she would have less than £100 a month left after meeting her repayment. As mentioned, her mortgage was in her sole name. This time the notes on the income and expenditure assessment say that her partner helps to pay the mortgage and priority bills. As I said above, if Ms K needed to meet her full mortgage commitment any month she would not be in a position to cover this and a new loan. This combined with the recent missed payments on her mortgage should have again raised concern for L2G that Ms K wouldn't be able to meet her repayments for a new loan in a sustainable manner over the term.

The assessment records Ms K as making payments to nine different entities, including several debt collectors. It seems she was now making payments for at least one of the short term loans she'd said she'd taken out on behalf of her son, which had remained unpaid since the time of her first loan. A note on the credit file says that she was unaware of an old defaulted debt of £500, though she'd said at the time of her first loan that this was also one of her son's debts.

I think these inconsistencies ought to have made L2G aware that it didn't have complete or correct information about Ms K's existing credit commitments. CONC 5.5.3G said that it needed to take steps to ensure that the information it had was complete and correct before entering into a credit agreement. Furthermore CONC 5.3.7R stated "A firm must not accept

an application for credit ... where a firm knows or ought reasonably to suspect that the customer has not been truthful in completing the application..." for example, if the information supplied is clearly inconsistent.

The record for Ms K's second loan doesn't show any late payments though there was contact in order to re-take a payment, and it seems Ms K enquired about a top-up loan. Ms K paid her loan within months and, taking everything into account, I don't think it's likely she managed to meet her repayments for this second loan in a sustainable manner. I think L2G was irresponsible when it agreed to lend to Ms K a second time.

I am therefore upholding Ms K's complaint about both of her loans and I've set out below what L2G needs to do to put things right for her.

Putting things right

I think it's fair that Ms K repays the capital she borrowed on both occasions as she's had the use of this money. However, I don't think she should be liable for any interest or charges or have her credit record adversely impacted.

In order to put things right for Ms K, L2G needs to:

- a) Refund to Ms K all payments she made above the original amounts she borrowed;
- b) Add 8% simple interest per annum to these overpayments from the date they were paid to the date of refund; and
- c) Remove any adverse information about these loans from Ms K's credit file.

It seems likely that this has already happened but for completion, L2G should also revoke the Bill of Sale for Ms K's car and return any relevant documents to her.

*HM Revenue & Customs requires L2G to deduct tax from this interest. It should give Ms K a certificate showing how much tax it has deducted, if she asks for one.

My final decision

For the reasons set out above, I'm am upholding Ms K's complaint about Loans 2 Go Limited and require it to put things right as I've outlined.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 18 February 2022.

Michelle Boundy
Ombudsman