

The complaint

Miss G has complained that Logbook Money Limited (“LML” or “the lender”) was irresponsible to have agreed credit for her.

What happened

LML provided Miss G with two loans: her first was for £1,000 taken out on 17 October 2017 and her second was for £1,442 on 11 February 2018. The total amount owed for Loan 1 was £2,800 to be repaid in 18 monthly instalments of £156. The total amount owed for Loan 2 was £4,037 to be repaid in 18 monthly instalments of £224 (all figures rounded).

These were ‘log book’ loans, in other words they were granted on the basis that Miss G provided LML with security by way of her car. This meant that if Miss G didn’t make her loan repayments LML could potentially recoup its losses through the sale of her vehicle.

I understand Miss G made her first few payments for Loan 1, then paid off the balance with some of the capital she received for Loan 2. Miss G missed payments on this second loan in some months in 2018 and by December 2018 had set up a repayment plan for her arrears. Miss G also missed payments throughout 2019 and set up ad-hoc repayment plans until she eventually repaid the loan in December 2019.

Miss G said that LML was irresponsible to have agreed credit for her. She says the loans were unaffordable and that she needed to borrow from elsewhere to meet her repayments. Miss G also says that repaying these loans caused her to miss payments on her other debts including her mortgage.

LML didn’t agree with Miss G. It said in its final response to her complaint that her loan applications had been supported by bank statements which showed that she was employed and being paid a regular income. LML also said that it had not, at any time, had contact from Miss G to indicate that she was under financial strain.

Miss G referred her complaint to us. One of our investigators looked into Miss G’s complaint and recommended that it be upheld in part because they concluded LML was irresponsible to have agreed a second loan for Miss G. They recommended that Miss G shouldn’t have to repay any more than the original capital she borrowed on this loan and that LML should remove any adverse information about it from her credit file.

LML didn’t agree with this recommendation and asked for the complaint to come to an ombudsman to review and resolve. I issued a provisional decision on the 8 February explaining why I planned to uphold Miss G’s complaint. I provisionally found that LML had been irresponsible when it lent to Miss G a second time because it should have seen from the information it had that she was unlikely to be able to meet her repayments in a sustainable manner.

LML responded to say that it didn’t agree with my provisional conclusions and provided some further comments for me to consider. This is my final decision on the matter and will

be legally binding on both parties if Miss G accepts it.

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 having considered the comments both parties made in response to my provisional decision, my conclusion remains that Miss G's complaint about her second loan should be upheld. I appreciate that this will be disappointing for LML and I hope the following clearly explains my reasons.

As I'd said in my provisional decision, LML will be familiar with the regulations in place at the time so I will summarise its main obligations. LML needed to check that Miss G could afford to meet her repayments sustainably before agreeing each loan. In other words, it needed to check that she could meet her repayments out of her usual means without having to borrow further and without experiencing financial difficulty or other adverse consequences. The necessary checks needed to take into account both the nature of the credit (amount, term etc.) and Miss G's particular circumstances.

The overarching requirement was that LML needed to pay due regard to Miss G's interests and treat her fairly. The regulator's Consumer Credit (CONC) handbook paragraph 2.2.2G gave an example of contravening this requirement as '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.'

With this in mind, my main considerations are did LML complete reasonable and proportionate checks when assessing Miss G's applications to satisfy itself that she would be able to make her repayments without experiencing financial difficulty or other adverse consequences? If not, what would reasonable and proportionate checks have shown and, ultimately, did LML make fair lending decisions?

I've started by looking at the information LML relied on. This included what Miss G said about her finances - she gave her net monthly income as £1,500 plus monthly pension payments totalling £583 when she applied for her first and second loans. Miss G said her monthly expenditure came to £1,182. This left her with a declared disposable income of about £900 to meet her monthly loan payments of approximately £156 and £224 for Loans 1 and 2 respectively.

LML also relied on Miss G's bank statements. It provided snapshots of her bank transactions covering some days in August, September, and October 2017 from her application for Loan 1 in mid-October 2017. I've assumed LML saw all of the transactions in these months prior to the agreement, or should have, having relied on this information. Miss G has provided us with full bank statements for August and September 2017.

I've noted that:

- Miss G said her monthly income was £1,500 and the bank statements show she was paid about £2,000 in August and September 2017;
- Miss G stated that her monthly mortgage payment was £657. I can see from the bank statements that her mortgage payment was £465 in August 2017 and £765 in September;
- Miss G was making payments to a short term lender of about £100 which weren't included in her monthly expenditure figure;
- She borrowed again from this short term lender on 4 October 2017, taking out £250 just two weeks prior to her first LML loan;

- As captured in LML's assessment, Miss G was paying four different debt collectors;
- Miss G was also paying money to a third party debt collector (which I'll refer to as Company S) specialising in local authority debt, for example £200 in September 2017.

As mentioned above, LML had estimated Miss G's monthly disposable income as about £900 from the figures she gave and, while there were some additional costs identifiable on her bank statements, the repayments for this first loan would still have seemed affordable. I appreciate that Miss G has told us that her earnings included overtime and so might not always come to £1,500 but on the statements LML saw, or should have seen, from the previous months her earnings weren't any lower than she'd declared and in fact were considerably higher.

That said, I think LML ought to have been concerned about the payment of £200 to Company S because it suggested that Miss G was behind on a priority debt. LML could also see that Miss G was making payments to several debt collectors. So I think it ought to have been concerned about how Miss G was managing her money and taken steps to understand the history and extent of her existing debts before agreeing to lend to her.

Miss G told us that she struggled to meet her council tax payments and provided statements from Company S from August 2020 informing her that an earnings arrestment order had been obtained as she'd failed to repay her arrears. Miss G has since provided me with evidence which shows she was in arrears with her council tax in the 2018 to 2019 period. She's also told us that she fell behind on her mortgage payments and provided an arrears statement from late 2020.

Let me say at this point that I fully accept what Miss G has told us about her financial and personal circumstances and I am sorry things have been so difficult for her. However, I don't know the extent or age of Miss G's council tax arrears or the other debts she was paying through debt collectors or otherwise in October 2017, in other words at the time of this first loan. So I don't know what LML would have found out about this had it looked into her existing debt levels at that time.

Having considered this point carefully taking everything into consideration, on balance, I've concluded that LML wasn't irresponsible when it agreed to lend to Miss G on this occasion.

LML provided copies of Miss G's bank statements from the time of her second loan application, which cover the dates 25 October 2017 to 25 January 2018.

I've noted that:

- Miss G's mortgage payment was £780, which was higher than the amount she'd stated by £123;
- She was making payments to a short term lender of £123 which weren't included in her monthly expenditure figure;
- Her income varied, for example she'd received £1,386 in November 2017;
- As captured in LML's assessment, Miss G was paying four different debt collectors;
- She paid £200 again in October 2017 to Company S;
- Miss G spent over £2,000 on gambling in a month from 27 December 2017 to 25 January 2018.

Our investigator found that LML was irresponsible to lend to Miss G a second time because it should have seen that the loan repayments were likely to be unsustainable for her. In response, LML said that:

- Miss G's salary variations were due to an illness and that she was back on track and in work when it agreed this second loan. She also had her pension to rely on;
- A mortgage payment of £780 would still mean the loan was affordable for Miss G;
- It took the gambling transactions, which it described as "a few payments to bingo", into account as expenditure, and the loan was still affordable.

LML said in response to my provisional decision that before agreeing a second loan for Miss G it did consider costs shown on her bank statements other than those she'd declared. These included, for example Miss G's debt collection payments, other lending and gambling which it estimated to be £330 in total. It provided an (undated) income and expenditure assessment which calculated that Miss G would have approximately £600 of disposable income a month to cover her loan repayments.

LML knew at this point that Miss G's monthly income could be as low as £1,385, quite a drop from the figures it saw at the time of Loan 1. Miss G told us that her salary included a basic wage plus overtime and has provided some payslips from early 2017 and early 2018 which support this. These show she was paid her basic wage in the months following this second loan and so didn't earn more than £1,200 in March or April 2018.

LML said in response to my provisional decision that it had obtained evidence of Miss G's wages via her bank statements which showed she was paid £1,648 in October 2017, £1,386 in November and £1,654 in December, so it was reasonable to assume Miss G was paid an average of £1,500. I accept it was reasonable to consider Miss G had an average wage of around £1,500, given the deposits on her bank statements. However, I think LML needed to bear in mind that Miss G's income in any one month might be as low as £1,385, in other words it could have overestimated her monthly disposable income by £115.

In addition, I don't think LML considered that Miss G's mortgage payments were higher than it recorded by £130 or that it appeared she was still making payments of £200 to Company S. So I remain of the view that the information LML had showed that there was a risk to Miss G of not managing to meet her repayments in a sustainable manner over the loan term.

Furthermore, I cannot agree with LML that the gambling transactions on Miss G's bank statements were simply a few payments. This does appear to have been the case around the time of her first loan but, for example, the statements it saw when she applied for her second loan showed just under 100 identifiable gambling withdrawals across 17 days in the period from 25 December 2017 to 25 January 2018 amounting to over £2,000. The frequency and value of these ought to have caused serious concern to LML about the suitability of the loan for Miss G and, again, the risk to her of not managing to meet her repayments sustainably.

LML said that its policy at the time was to calculate the net winnings or losses when considering an applicant's gambling transactions. Where there was a net loss, the monthly average would be calculated and included in the assessment. In Miss G's case LML says it estimated that she incurred an average monthly net loss of £97. Even if I were to agree with this approach, I don't think it would have reassured LML that Miss G would be in a position to meet her loan payments without difficulty. I note that this estimate was an average net loss over the three months. Miss G's apparent losses in the period 25 December 2017 to 25 January 2018 came to at least £280.

Altogether, I've concluded that LML ought to have realised that this second loan wasn't affordable for Miss G in a sustainable manner. I think LML was irresponsible to have

agreed to lend to Miss G on this occasion and that the difficulties she had meeting her repayments as they fell due were foreseeable.

LML said in its response to my provisional decision that Miss G was already borrowing from a short term lender prior to its second loan so it wasn't reasonable to say that she needed to borrow from this lender in order to meet her loan repayments. Miss G provided some bank statements from December 2018 showing she was still making payments to this short term lender, which suggests to me she continued to rely on this type of credit to supplement her means. And, as mentioned above, Miss G had problems paying her council tax around this time incurring arrears of almost £1,000 for the 2018 to 2019 tax year. I've also noted that her December 2018 statement shows payments to another third party debt collector and similar gambling patterns.

Putting things right

I think it's fair that Miss G repays the capital she borrowed for Loan 2 as she's had the use of this. However, I don't think she should be liable for any interest or charges on this amount or have her credit record adversely impacted. In order to put things right for Miss G, LML needs to:

- a) Refund to Miss G all payments she made above the original amount (of approximately £1,442) she borrowed in February 2018;
- 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 this loan from Miss G's credit file; and
- d) Unwind any interest it has in Miss G's car and return any relevant documents to her if it hasn't already done so.

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

My final decision

For the reasons set out above, I am upholding Miss G's complaint about Logbook Money Limited in part and it should put things right as I've said.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 8 April 2022.

Michelle Boundy

Ombudsman