

Complaint

Mrs K has complained that Loans 2 Go Limited ("L2G") provided her with unaffordable loans.

Background

L2G provided Mrs K with a first loan for £250 in August 2018. This loan was due to be repaid in 18 monthly instalments of £56.64. This loan was repaid with some of the proceeds of loan 2 which was provided in December 2018. A total of £500 was advanced at this stage and this loan was due to be repaid in 18 monthly instalments of £113.28.

One of our adjudicators looked at this complaint and thought that while it hadn't done anything wrong when providing loan 1, L2G unfairly provided loan 2 as proportionate checks would have shown it was unaffordable. Mrs K didn't disagree with our adjudicator but L2G did and asked for an ombudsman to review the complaint. As the parties are in agreement over loan 1, this decision is only considering whether L2G acted fairly and reasonably when it provided loan 2.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

We've set out our general approach to complaints about unaffordable/irresponsible lending - including the key rules, guidance and good industry practice - on our website. And I've referred to this when deciding Mrs K's complaint.

Having carefully thought about everything, I think that there are two overarching questions that I need to answer in order to fairly and reasonably decide Mrs K's complaint. These two questions are:

1. Did L2G complete reasonable and proportionate checks to satisfy itself that Mrs K would be able to repay loan 2 in a sustainable way?
 - o If so, did it make a fair lending decision?
 - o If not, would those checks have shown that Mrs K would've been able to do so?
2. Did L2G act unfairly or unreasonably in some other way?

Did L2G complete reasonable and proportionate checks to satisfy itself that Mrs K would be able to repay loan 2 in a sustainable way?

L2G provided loan 2 while it was authorised and regulated by the Financial Conduct Authority ("FCA"). The rules and regulations in place required L2G to carry out a reasonable and proportionate assessment of Mrs K's ability to make the repayments under this agreement. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be “borrower” focused – so L2G had to think about whether repaying the loan would cause significant adverse consequences *for Mrs K*. In practice this meant that L2G had to ensure that making the payments to the loan wouldn’t cause Mrs K undue difficulty or adverse consequences.

In other words, it wasn’t enough for L2G to simply think about the likelihood of it getting its money back, it had to consider the impact of the loan repayments on Mrs K. Checks also had to be “proportionate” to the specific circumstances of the loan application.

In general, what constitutes a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the particular circumstances of the consumer (e.g. their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount / type / cost of credit they are seeking. Even for the same customer, a proportionate check could look different for different applications.

In light of this, I think that a reasonable and proportionate check ought generally to have been *more* thorough:

- the *lower* a customer’s income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *longer* the term of the loan (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make payments for an extended period); and
- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may also be other factors which could influence how detailed a proportionate check should’ve been for a given loan application – including (but not limited to) any indications of borrower vulnerability and any foreseeable changes in future circumstances.

I’ve carefully thought about all of the relevant factors in this case.

Were L2G’s checks reasonable and proportionate?

L2G says that it carried out an income and expenditure assessment with Mrs K prior to providing her with all of her loans. It also carried out a credit check. L2G checks suggested Mrs K’s income was around £2,100.00 a month and her expenditure around £1,850.00 based what it saw on her credit file. This left her with more than enough to cover the payments to this loan.

I’ve carefully considered what L2G has said. But while L2G says Mrs K had an excellent repayment history on loan 1 she actually repaid this loan with further funds borrowed from L2G. This coupled with L2G seeing a significant amount of short-term lending on Mrs K’s credit file, this being a second application within a short period and Mrs K difficulties

repaying other credit all lead me to think that L2G needed to take steps to verify Mrs K's actual monthly expenditure.

As I can't see that this L2G did do this, I don't think that the checks it carried out before providing Mrs K with loan 2 were reasonable and proportionate.

Would reasonable and proportionate checks have indicated to L2G that Mrs K would have been unable to repay loan 2?

As reasonable and proportionate checks weren't carried out before loan 2 was provided, I can't say for sure what they would've shown. So I need to decide whether it is more likely than not that a proportionate check would have told L2G that Mrs K would have been unable to sustainably repay this loan.

L2G was required to establish whether Mrs K could make her loan repayments without experiencing significant adverse consequences – not just whether the loan payments were technically affordable on a strict pounds and pence calculation.

I've carefully considered the information provided. Having done so, it is clear Mrs K's income was being used to meet commitments to existing creditors. I can see at least one account which had been in delinquency prior to this application and an extensive history of payday lending too. So I think Mrs K was always unlikely to be able to make the payments she was being asked to commit to without borrowing further or suffering significant adverse consequences.

Bearing all of this in mind, I'm satisfied that reasonable and proportionate checks would more likely than not have demonstrated that Mrs K would not have been able to make the repayments to this loan without borrowing further and/or suffering undue difficulty. And, in these circumstances, I find that reasonable and proportionate checks would more likely than not have alerted L2G to the fact that Mrs K was in no sort of position to make the payments to loan 2 without suffering significant adverse consequences.

Did L2G act unfairly or unreasonably towards Mrs K in some other way?

I've carefully thought about everything provided. And having done so, I've not seen anything to suggest that L2G acted unfairly or unreasonably towards Mrs K in some other way. So I don't think L2G acted unfairly or unreasonably towards Mrs K in some other way.

Did Mrs K lose out as a result of L2G unfairly providing her with this loan?

As Mrs K paid a high amount of interest and charges on a loan that she shouldn't have been provided with, I'm satisfied that she lost out as a result of what L2G did wrong.

So I think that L2G needs to put things right.

Fair compensation – what L2G needs to do to put things right for Mrs K

Having thought about everything, I think it would be fair and reasonable in all the circumstances of Mrs K's complaint for L2G to put things right by:

- refunding all interest, fees and charges Mrs K paid as a result of being provided with loan 2;
- adding interest at 8% per year simple on any refunded amounts from the date they were paid by Mrs K to the date of settlement†;

- removing any adverse information recorded on Mrs K's credit file as a result of this loan.

† HM Revenue & Customs requires L2G to take off tax from this interest. L2G must give Mrs K a certificate showing how much tax it has taken off if she asks for one.

My final decision

For the reasons I've explained, I'm upholding Mrs K's complaint. Loans 2 Go Limited needs to put things right in the way set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 25 April 2022.

Jeshen Narayanan
Ombudsman