

Complaint

Miss M has complained about a loan Loans 2 Go Limited (“L2G”) provided to her. She says the loan was unaffordable and provided when she was going through a really difficult period.

Background

L2G provided Miss M with a loan for £500 in July 2022. This loan had an APR of 1,013.2% and was due to be repaid in 18 monthly instalments of £114.28.

One of our investigators reviewed Miss M’s complaint and he thought L2G hadn’t done anything wrong or treated Miss M unfairly. So he didn’t think that Miss M’s complaint should be upheld. Miss M disagreed so the case was passed to an ombudsman.

My provisional decision of 4 September 2023

I issued a provisional decision – on 4 September 2023 - setting out why I intended to uphold Miss M’s complaint. I won’t copy that decision in full, but I will instead provide a summary of my findings.

I started by explaining that we’ve explained how we handle complaints about unaffordable and irresponsible lending on our website. And that I had used this approach to help me provisionally decide Miss M’s complaint.

L2G needed to make sure it didn’t lend irresponsibly. In practice, what this means is L2G needed to carry out proportionate checks to be able to understand whether Miss M could afford to repay any credit it provided. Our website sets out what we typically think about when deciding whether a lender’s checks were proportionate. Generally, we think it’s reasonable for a lender’s checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower’s income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we’d expect a lender to be able to show that it didn’t continue to lend to a customer irresponsibly.

I considered what L2G had done and its actions in light of this.

I was mindful that L2G had determined that Miss M’s income was significantly lower than what she’d declared. And the credit check L2G carried out showed Miss M had had previous difficulties with credit – in the form of defaults and arrangements to pay. The credit check carried out also showed that Miss M just taken out a loan for an amount equivalent to her monthly salary in the period leading up to this loan.

So it seemed clear to me that Miss M didn’t fit the profile of the average borrower and I wasn’t persuaded that it was reasonable to rely on ONS data to validate her monthly expenditure. Given what I’d seen, I was persuaded by what Miss M had said about already being in a difficult financial position at the time.

I did accept it was possible that Miss M's credit file reflected her choices rather than financial difficulties. But I also added that my experience of these types of cases suggest this was unlikely. In any event, I was satisfied that further checks would more like than not have shown that Miss M wouldn't have been able to repay this loan without experiencing undue difficulty or borrowing further.

All of this left me satisfied that reasonable and proportionate checks would more like than not have shown L2G that it shouldn't have provided this loan to Miss M. And as L2G provided Miss M with this loan, notwithstanding this, this left me intending to conclude that it failed to act fairly and reasonably towards her.

I thought that as Miss M ended up paying (and is still being expected to pay) interest, fees and charges on a loan she shouldn't have been provided with, she lost out because of what L2G did wrong. And I was satisfied that this meant that L2G needed to put things right.

Responses to my provisional decision

Miss M confirmed that she agreed with my provisional decision and that she had nothing further to add.

L2G disagreed with my provisional decision. It said it used a new breed of credit reference agency licensed by the regulator. It verified that Miss M had a minimum income of £1,018.73 and total monthly expenditure of £1,450.00, which left her with a monthly disposable income of £145.

It didn't agree that it relied on ONS data as it only used this data to check whether Miss M's declarations were reasonable. Finally, it acknowledged that Miss M had had previous difficulties with credit but these were historic and didn't mean that her application should have been rejected.

My findings

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

I set out in some detail why I intended to uphold Miss M's complaint in my provisional decision of 4 September 2023.

L2G has disputed my findings and I've considered what it has said. I accept that Miss M's defaults were historic. Nonetheless, the copy of the credit search provided does indicate that she'd other difficulties in the form of missed payments and arrangements to pay.

In any event, I'm not suggesting that Miss M's previous difficulty with credit in itself meant that L2G shouldn't have lent to her. But I do think that this coupled with Miss M's income being significantly lower than she'd declared mean that further checks were necessary in this instance. And if these further checks had been carried out L2G would have seen that Miss M was unlikely to make the payments to this loan without undue difficulty or borrowing further.

Furthermore, having considered what L2G has said about its own conclusions on Miss M's income and expenditure, I don't see how a monthly income of £1,018.73 and monthly expenditure of £1,450.00 would have left Miss M with disposable income of £145. On the basis of what L2G says it found out, Miss M's existing expenditure exceeded her income. And I don't see how she had the disposable income to make the payments to this loan.

So while I've considered the further comments that L2G has made in response to my provisional decision of 4 September 2023, I've not been persuaded to alter my conclusions. I'm therefore still upholding Miss M's complaint. And I remain satisfied that L2G needs to put things right.

Fair compensation – what L2G needs to do to put things right for Miss M

Having thought about everything, I think that L2G should put things right for Miss M by:

- removing all interest, fees and charges applied to the loan from the outset. The payments Miss M made, whether to L2G or any third-party debt purchaser, should be deducted from the new starting balance – the £500 originally lent. If Miss M has already repaid more than £500 then L2G should treat any extra as overpayments. And any overpayments should be refunded to Miss M;
- adding interest at 8% per year simple on any overpayments, if any, from the date they were made by Miss M to the date of settlement†
- if no outstanding balance remains after all adjustments have been made, all adverse information L2G recorded about this loan should be removed from Miss M's credit file.

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

I'd also remind L2G of its obligation to exercise forbearance and due consideration if it intends to collect on an outstanding balance, should it buy the debt back from any third-party debt purchaser and one remains, after all adjustments have been made to the account and it's the case that Miss M is experiencing financial difficulty.

My final decision

For the reasons I've explained above and in my provisional decision of 4 September 2023, I'm upholding Miss M's complaint. Loans 2 Go Limited should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 20 October 2023.

Jeshen Narayanan
Ombudsman