

Complaint

Miss A has complained about a loan Loans 2 Go Limited (“L2G”) provided to her. She says proportionate checks weren’t carried out and if such checks had been carried out it would have been clear that the loan wasn’t affordable for her.

Background

L2G provided Miss A with a loan for £1,000.00 in January 2023. This loan had an APR of 770% and the total amount to be repaid of £3,700.08, which included interest, fees and charges of £2,700.08, was due to be repaid in 18 monthly instalments of £205.56.

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

My provisional decision of 13 June 2024

I issued a provisional decision – on 13 June 2024 - setting out why I was intending to uphold Miss A’s complaint.

In summary, I was intending to uphold Miss A’s complaint as I thought that reasonable and proportionate checks would more likely than not have shown L2G that this loan wasn’t affordable for her.

Responses to my provisional decision

Miss A didn’t respond to my provisional decision or provide anything further for me to consider.

L2G responded to say that it disagreed with my provisional decision. In summary, it said:

- it accepted there was some adverse information on Miss A’s credit file. But it doesn’t think that Miss A’s application should have been rejected because she had problems in the past.
- a credit provider is only required to undertake reasonable and proportionate checks at the time of an application. Additional checks - such as asking to review bank statements - would only be expected where the initial checks give reasonable cause for concern. It has not seen enough evidence to suggest that extra checks were necessary in this instance.

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 explained how we handle complaints about unaffordable and irresponsible lending on our website. And I've used this approach to help me decide Miss A's complaint.

Having carefully considered everything, including the responses to my provisional decision, I'm still persuaded that it is fair and reasonable to uphold Miss A's complaint. I'll explain why in a little more detail.

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 A 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'm mindful that the credit check L2G carried out showed Miss A had had previous difficulties with credit – in the form of defaults and an active county court judgment ("CCJ") recorded against her. The credit check also showed that Miss A was close to the limit on at least one of her revolving credit accounts.

Furthermore, L2G considered that Miss A's income was less than what she declared and the monthly payment for this loan was taking up a significant chunk of the disposable income it had arrived at for Miss A too. And this was without actually verifying what Miss A had said about her income and expenditure. I appreciate that there might have been a degree of cross-checking Miss A's income using some online tools but, in my view, this isn't the same as verification.

For the avoidance of doubt and in response to what L2G has said in response to my provisional decision. I don't think that any of this means that L2G should automatically have declined Miss A's application. But, in my view, what all of this does do is call into question whether Miss A did have the level of disposable income L2G says it believed Miss A had. So I remain satisfied that it would have been fair and reasonable for L2G to have carried out further checks into Miss A's circumstances. This is irrespective of the fact that L2G has said it does not agree with this.

I think that further checks would have extended into finding out more about Miss A's expenditure. And I think that if L2G had found out more about Miss A's expenditure, it's likely – and more likely than not – that it would have seen Miss A was already in a difficult financial position.

In these circumstances, I also think that L2G carrying out further checks is likely to have seen it realise that it was unlikely that Miss A would be able to repay this loan without suffering significant adverse consequences or financial difficulty.

All of this leaves 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 A. And as L2G provided Miss A with this loan, notwithstanding this, I'm satisfied that it failed to act fairly and reasonably towards her.

Miss A has ended up paying interest, fees and charges on a loan she shouldn't have been provided with in the first place. So I'm satisfied that Miss A lost out because of what L2G did wrong and that it should put things right.

Fair compensation – what I think L2G needs to do to put things right for Miss A

Having thought about everything, I'm satisfied that L2G should put things right for Miss A by:

- removing all interest, fees and charges applied to Miss A's loan from the outset. The payments Miss A made, whether to L2G or any third-party debt purchaser, should be deducted from the new starting balance – the £1,000.00 originally lent. If Miss A has already paid more than £1,000.00 on this loan, whether to L2G or any third-party debt collector, then L2G should treat any extra as overpayments. And any overpayments should be refunded to Miss A.
- L2G only needs to remove any adverse information, it is responsible for recording, should no outstanding balance remain after all adjustments have been made.

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

L2G sold an outstanding balance on Miss A's loan to a third-party debt purchaser. So it will need to either buy the debt back from the third-party and make the necessary adjustments, pay an amount to the third party (equivalent to what needs to be paid on Miss A's account so that it is reduced by the interest added from the outset) in order for it to make the necessary adjustments, or pay Miss A an amount (equivalent to the interest, fees and charges which need to be refunded) to ensure that it fully complies with this proposed direction.

My final decision

For the reasons I've explained above and in my provisional decision of 13 June 2024, I'm upholding Miss A's complaint. Loans 2 Go Limited should put things right in the way I've directed it to above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 26 July 2024.

Jeshen Narayanan
Ombudsman