

complaint

Miss H complains that Greenlight Credit Ltd (trading as Varooma) lent to her in an irresponsible manner.

background

The background to this complaint was set out in the provisional decision I issued in February 2021. An extract from this is attached and forms part of this final decision, so I will not repeat that information here.

In my provisional decision I set out why I was minded to uphold part of the complaint. I invited both parties to let me have any further comments and evidence. Both Miss H and Varooma have said they have nothing further to add in relation to my findings. However Miss H has drawn to my attention that Varooma did try to settle her complaint whilst it was being considered by this Service – it offered to reduce her outstanding loan balance. But she said that a condition of that offer was that she withdrew her complaint. She is concerned that other consumers might not get the compensation they deserve if they accept similar offers from the lender.

my findings

I've once more considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Given that neither party has provided me with any new evidence or further comments I see no reason to alter the conclusions I reached in my provisional decision. But I do think it appropriate to respond to the additional comments made by Miss H.

I don't think it is unreasonable for a business to attempt to reach a mutually agreeable resolution to a complaint directly with a consumer, even after the matter has been passed to this Service. And given that settlement would be in resolution of a complaint, it isn't unreasonable for a business to ask that a complaint be withdrawn once the matter was concluded. Of course a negotiated settlement might mean that a consumer would receive less compensation than this Service might direct. But a consumer has no guarantee that a complaint would be upheld by the Service, so might actually receive more compensation. That is the nature of a negotiated settlement before matters are decided by an independent body.

I conclude that, for the reasons I have given in my provisional decision, the checks Varooma did before agreeing the first two loans were proportionate. But I think Varooma needed to do more checks before agreeing the final loan, and that better checks would have led to Miss H's application being declined. So Varooma needs to pay Miss H some compensation.

putting things right

I don't think Varooma should have given the final loan to Miss H (in May 2018). So Varooma should;

- remove any interest and charges still outstanding on the loan and treat all the payments Miss H made towards this loan as payments towards the capital

- if reworking Miss H's loan account as I've directed results in Miss H effectively having made payments above the original capital borrowed, then Varooma should refund these overpayments with 8% simple interest calculated on the overpayments, from the date the overpayments would have arisen, to the date of settlement†.
- If reworking Miss H's loan account leaves an amount of capital still to be paid, then I remind Varooma that it should take a sympathetic view when seeking to agree an affordable repayment plan with Miss H.
- Varooma should cancel the bill of sale it holds in respect of this loan, and if it still holds them, return any keys, the V5 document, or other documentation in relation to Miss H's vehicle.
- remove any adverse information recorded on Miss H's credit file in relation to the loan

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

my final decision

My final decision, for the reasons given above and in my provisional decision, is that I uphold Miss H's complaint and direct Greenlight Credit Ltd to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 5 April 2021.

Paul Reilly
ombudsman

EXTRACT FROM PROVISIONAL DECISION**complaint**

Miss H complains that Greenlight Credit Ltd (trading as Varooma) lent to her in an irresponsible manner.

background

Miss H was given three loans by Varooma between January 2017 and May 2018. Each of the loans were secured against her motor vehicle. She has told us that her complaint is mainly about what happened when the third loan was agreed. But I think it is fair and reasonable that I should consider her entire borrowing relationship with the lender. Miss H repaid her first loan earlier than planned. And she repaid her second loan by refinancing it with the third loan, whilst taking some additional borrowing. But she has struggled to make her repayments on that final loan and a balance remained outstanding when she made her complaint. A summary of Miss H's borrowing from Varooma is as follows;

Loan Number	Borrowing Date	Repayment Date	Loan Amount	Term (Months)
1	13/01/2017	28/07/2017	£ 600	12
2	02/01/2018	Refinanced	£ 500	12
3	24/05/2018	Outstanding	£ 900	18

Miss H's complaint has been considered by one of our adjudicators. Whilst she thought Varooma should have done more checks before agreeing the third loan, she didn't think that better checks would have led to the loan application being declined. So our adjudicator didn't think the complaint should be upheld.

Miss H didn't agree with that assessment. So, as the complaint hasn't been resolved informally, it has been passed to me, an ombudsman, to decide.

my provisional 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 approach to unaffordable/irresponsible lending complaints on our website and I've kept this in mind while deciding Miss H's complaint.

The rules and regulations at the time Varooma gave these loans to Miss H required it to carry out a reasonable and proportionate assessment of whether she could afford to repay what she owed in a sustainable manner. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower" focused – so Varooma had to think about whether repaying the credit sustainably would cause difficulties or adverse consequences for Miss H. In practice this meant that Varooma had to ensure that making the repayments wouldn't cause Miss H undue difficulty or adverse consequences. In other words, it wasn't enough for Varooma to simply think about the likelihood of it getting its money back, it had to consider the impact of any repayments on Miss H.

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.

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 repayments to credit from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet higher repayments from a particular level of income);
- the *longer* the period of time a borrower will be indebted for (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make repayments for an extended period).

There may also be other factors which could influence how detailed a proportionate check should've been for a given application – including (but not limited to) any indications of borrower vulnerability and any foreseeable changes in future circumstances. I've kept all of this in mind when thinking about whether Varooma did what it needed to before agreeing to lend to Miss H.

Varooma gathered some information from Miss H before it agreed the first two loans. It asked her for details of her income, and her normal expenditure. And it checked her credit file. Although I haven't seen the results of those credit checks I'm not aware of any adverse information that I think should have caused additional concerns to the lender at that time.

I think that the checks Varooma did before agreeing the first two loans were proportionate. The amounts that Miss H needed to repay were small compared with the disposable income she'd declared. And both loans were due to be repaid within a year. Given these repayment amounts, what was apparent about Miss H's circumstances at the time, and her borrowing history with the lender, I don't think it would've been proportionate for Varooma to ask her for the amount of information that would be needed to show the lending was unsustainable before agreeing the first two loans.

Before it agreed the third loan Varooma again asked Miss H for details of her income, and her normal expenditure. And it checked her credit file once more. Its check showed that Miss H had received a county court judgement around two months earlier which might have caused some additional concerns. And Miss H was asking to almost double the amount that she was borrowing,

The commitment that Miss H was entering into with Varooma was greater than before. She would need to make monthly repayments for a period of 18 months. So given what Varooma had seen from its credit check, and from its lending history with Miss H, I would expect that it would want to gather, and independently check, some detailed information about her financial circumstances before it agreed to give this loan to her. I think it would have been proportionate for Varooma to independently check the true state of Miss H's finances before agreeing the loan.

Miss H has told us that she wasn't able to provide full copies of her bank statements to Varooma's agent at the time. Instead she says she gave him a limited selection of screen shots showing some transactions on her account. I can't conclude that was sufficient for Varooma to get a full picture of Miss H's financial situation – so I don't think its checks before agreeing the final loan were proportionate.

But although I don't think the checks Varooma did before agreeing the loan were sufficient, that in itself doesn't mean that Miss H's complaint should succeed. I'd also need to be persuaded that what I consider to be proportionate checks would have shown Varooma that Miss H couldn't sustainably afford the repayments. So I've looked at Miss H's bank statements, and what she's told us about her financial situation, to see what better checks would have shown Varooma.

At this stage I want to be clear that I am not suggesting that this is the exact check that Varooma should have carried out. I do think Varooma needed evidence to corroborate what Miss H said was happening with her finances. And looking at her bank statements is one way of achieving that although there are of course many other ways that level of detail could be established. But I think that by looking at Miss H's bank statements I can get a good idea of what better checks might have shown.

Miss H has told us that she was facing problems managing her spending at that time, and that in particular she had a problem with online gambling. And that is apparent from her bank statements. In the month before she took the final loan from Varooma Miss H spent an amount equal to her normal income from her employment on what appear to be gambling transactions. Had Varooma seen that level of expenditure I think it would have concluded, as a responsible lender, that it was unlikely that Miss H would be able to afford to repay any new lending in a sustainable manner.

In summary I currently think the checks Varooma did before agreeing the first two loans were proportionate. But I currently think Varooma needed to do more checks before agreeing the final loan, and that better checks would have led to Miss H's application being declined. So Varooma needs to pay Miss H some compensation.