

The complaint

Ms L complains that Go Car Credit Limited (“Go Car”) didn’t take reasonable steps to ensure she could afford the repayments towards a hire purchase agreement.

What happened

In December 2019, Go Car provided Ms L with finance for a used car which had a retail price of £4,000. No deposit was paid, and so Ms L financed the entire value of the vehicle, and the agreement had interest, fees and charges totalling £3,250 with a final purchase fee of £10 to be paid. The total amount to repay under the terms of the agreement was £7,250. This agreement was to be repaid in 39 monthly repayments of £181.16. Go Car has confirmed the agreement has been settled in April 2023.

Go Car considered Ms L’s complaint and didn’t uphold it. Go Car concluded adequate checks were conducted which showed the agreement to be affordable.

After Ms L’s complaint was referred to the Financial Ombudsman it was considered by an investigator and in the latest assessment they upheld the complaint. The investigator said further checks were needed because of the information contained within the credit check results Go Car received.

Had further checks been made, such as reviewing bank statements, then the investigator said it was likely Go Car would’ve been aware that Ms L was spending close to her income each month on gambling transactions and so the loan wasn’t affordable.

Go Car disagreed with the investigator’s outcome, saying in summary;

- Go Car was aware that Ms L was paying £2 per month towards the balances of the County Court Judgements (CCJs).
- The investigator had double counted the value of the CCJs when thinking about Ms L’s defaulted accounts.
- Since the CCJs had been recorded there had been no further adverse payment information.
- The income and expenditure information showed Ms L could afford the agreement.
- Go Car was aware of Ms L’s dependents as it captured information about the child related benefits and other costs.
- Ms L’s monthly repayment to Go Car was only around 7% of her income and she made her first 11 repayments without any difficulties.

These comments didn’t change the investigator’s assessment and so the complaint has been passed to me to decide.

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.

We've explained how we handle complaints about irresponsible and unaffordable lending on our website. And I've used this approach to help me decide Ms L's complaint. Having carefully thought about everything I've been provided with and I'm upholding Ms L's complaint. I'd like to explain why in a little more detail.

Go Car needed to make sure that it didn't lend irresponsibly. In practice, what this means is that Go Car needed to carry out proportionate checks to be able to understand whether any lending was sustainable for Ms L before providing it.

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 that information – 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, the amount lent was high, or the information the lender had – such as a significantly impaired credit history – suggested the lender needed to know more about a prospective borrower's ability to repay.

Ms L declared a monthly income of £2,546.60 and Go Car says this was verified using an "*automated income verification system*". No further details of this check have been provided but there doesn't seem to be a dispute about the amount of total income Ms L received each month. I don't think it was unreasonable to use this figure for its affordability assessment.

Ms L also declared her monthly outgoings across several categories – which was quite comprehensive. Ms L declared her monthly outgoings amounted to £1,672.64, and to this Go Car added a further buffer of £300. Once this buffer was applied this left disposable income each month of £573.96.

The expenditure information Ms L provided didn't contain any costs for rent or a mortgage, but Go Car says when it spoke to Ms L that she had repaid her mortgage and so it was reasonable of it to conclude that there were no housing costs. The credit report also indicated there wasn't a mortgage.

Go Car also carried out a credit search and it's provided a copy of the results that it received from the credit reference agency. And this is the crux of the issue here, is that the investigator said the credit checks along with some other discrepancies in the expenditure information ought to have led Go Car to conduct further checks perhaps by looking at her bank statements.

It knew Ms L had five active accounts, including a mail order, current account, two home credit loans and another unsecured loan that had been opened shortly before the Go Car loan. Given the balance and the repayment of the loan, it is likely to have been some sort of payday loan. It knew that Ms L had just over £2,000 of existing active debt with monthly repayments of £315.

The active accounts appeared to have been managed well, apart from a mail order account reporting a missed payment around seven months before the agreement was entered into.

Go Car discovered that Ms L had four active CCJ's with her owing a total of £4,551 – all of which were outstanding. On top of this it knew that the credit file was reporting eight defaulted accounts, with the earliest being reported in December 2011 and the latest being recorded in June 2018 – so around 18 months before the loan was advanced. But I do think these defaults show, that fairly regularly over an extended period of time, Ms L was getting into difficulties repaying creditors.

That being said, the information provided by Go Car doesn't show whether the CCJ's related to any of the defaulted accounts. This is important because the investigator added up (to work out Ms L's total debt) the total of her active accounts, defaulted accounts and the value of the CCJ's and this comes to nearly £10,500. Go Car says this isn't correct, because the defaulted balances and the CCJs could be double counted. I accept this is possible but given the CCJs balances are greater than the recorded defaulted balances, it therefore must follow that the CCJs include debts that may no longer be reporting on Ms L's credit file.

I appreciate Go Car says it wasn't concerned with the historic adverse payment data, but the fact that Ms L had difficulties to the extent that her credit file showed eight defaults and then presumably some of these lenders then took further action to recover the money and Ms L also had four CCJs recorded against her. I do think, this adverse payment information ought to have prompted further checks, to ensure that she wasn't currently struggling, and I say this bearing in mind that Ms L had opened three loan accounts within the previous six months.

Like the investigator, I do think that before the loan was approved, Go Car needed to conduct further checks into Ms L's financial situation. It could've gone about doing this a number of ways, it could've asked for bank statements, or any other documentation Go Car felt was needed to satisfy itself that Ms L wasn't overindebted or continuing to have difficulties.

I accept that had Go Car conducted proportionate checks it may not have seen all the information that I have seen. But, in the absence of Go Car conducting a proportionate check I do think it's entirely fair and reasonable to consider the bank statement that I now have access to.

From the statements that have been provided it is clear Ms L was regularly sending money to online gaming and betting websites and this was taking up a significant portion of her income. For example, in October 2019 she spends almost her entire monthly income on such websites. And I'm satisfied that had Go Car completed proportionate checks before lending it would've likely discovered this and decided that Ms L couldn't repay the loan in a sustainable manner because it required Ms L to be successful in order to repay not only this agreement but also her other regular living costs. I have therefore concluded that Go Car ought to not have granted this loan.

Finally, I've also thought about whether Go Car acted unfairly or unreasonably in any other way and I've considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have set out below results in fair compensation for Ms L in the circumstances of the complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

I've set out below what Go Car needs to do in order to put things right.

Putting things right

To settle Ms L's complaint Go Car should do the following:

- Refund any payments Ms L has made in excess of £4,000 representing the amount Go Car had lent. It should then add 8% simple interest per year* from the date of each overpayment to the date of settlement.
- Remove any adverse information recorded on Ms L's credit file regarding the agreement.

*HM Revenue & Customs requires Go Car to take off tax from this interest. Go Car must give Ms L a certificate showing how much tax it's taken off if she asks for one.

My final decision

For the reasons I've outlined above, I am upholding Ms L's complaint.

Go Car Credit Limited should put things right for Ms L as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms L to accept or reject my decision before 3 October 2024.

Robert Walker
Ombudsman