

The complaint

Miss E complains that Loans 2 Go Limited (referred to in this decision as “L2G”) lent to her irresponsibly. She complains that L2G didn’t do enough to check the lending would be affordable and that the terms of the loan weren’t made clear to her before the lending was agreed.

What happened

L2G provided Miss E with a loan of £400 in June 2024. This loan had an APR of 678.8% and a total amount to be repaid of £1,407.96 – which included interest of £1,007.96. It was agreed the loan would be repaid over 18 months in monthly instalments of £78.22.

One of our investigators reviewed Miss E’s complaint. She thought that L2G shouldn’t have provided this loan and recommended Miss E’s complaint be upheld. L2G disagreed so the case was passed to an ombudsman.

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

Having carefully considered everything, I agree with the investigator that Miss E’s complaint should be upheld. I’ll explain why in more detail.

L2G needed to ensure it didn’t lend irresponsibly. In practice, what this means is L2G needed to carry out reasonable and proportionate checks to be able to understand whether Miss E could afford to repay the lending in a sustainable way before providing this loan.

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 a firm is expected to do more if the cost of the credit (APR charged) is high, which I consider to be the case here. We might also expect it 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.

This was Miss E’s first loan agreement with L2G. Prior to this loan being agreed, it’s my understanding L2G considered:

- the information Miss E provided in her application,

- carried out checks to understand the accuracy of this information including a verification check on Miss E's declared income,
- carried out a full credit check to understand Miss E's current credit commitments and credit history, and
- carried out an income and expenditure assessment using information provided by Miss E, information it had gathered through the credit check, and information available from the Office of National Statistics (ONS) on average consumer spending.

L2G has said these checks led to it concluding the monthly payments would be affordable for Miss E. However, Miss E has said she shouldn't have been lent to. I've thought carefully about what L2G and Miss E have said.

The credit check L2G carried out showed Miss E had had previous difficulties with credit – including defaults on revolving credit accounts and a default on an account passed to a debt collection agency. Although L2G says that these defaults are historic, the credit check also showed Miss E was having difficulties managing her existing credit at the time the lending was agreed.

The credit check showed Miss E was nine months in arrears on a credit card and at 144% credit utilisation for this card. As the investigator has noted in their view, the Information Commissioner's Office (ICO) Principles for the Reporting of Arrears, Arrangements and Defaults at Credit Reference Agencies indicates a default may be recorded to show that a relationship has broken down. Typically, this would happen once an account has been in arrears for three months and normally by six months. Therefore, it was likely that this account would imminently default if it had not done so already. The credit check also indicated that debt collectors had carried out searches on Miss E three times over the last 24 months. And L2G's income check also noted Miss E's income as £1,259.68 – significantly less than the £2,400 she declared within her application.

The investigator has said that the information L2G gathered from this credit check was, in and of itself, enough for it to see the additional lending wouldn't be affordable for Miss E – as the credit check demonstrated she couldn't afford her existing commitments, so it wasn't sustainable to give her further borrowing.

I think there is merit to this argument particularly considering the requirement on L2G to have due regard to information that may indicate current financial difficulties, and its requirement to ensure additional lending wouldn't result in Miss E failing to meet any other contractual obligation or have a significant adverse impact on her financial situation.

However, irrespective of whether what L2G already had was enough such that it ought reasonably to have concluded that this loan was unaffordable for Miss E, I, in any event, think that L2G should have obtained further information relating to Miss E's actual income and expenditure to ensure it was lending responsibly.

I think that L2G doing that here would have shown it that the monthly payments were unaffordable for Miss E. I say this because I can see that a week following the loan being agreed L2G did carry out a further income and expenditure assessment with Miss E. This further check not only found that Miss E did not have a surplus of disposable income, but a deficit of around £500 a month once her committed expenditure was deducted from her income. I can see L2G offered Miss E a significantly reduced repayment plan following this further assessment of her financial circumstances which I think effectively demonstrates it was accepting this as an actual reflection of Miss E's true financial position.

Given the proximity of this further assessment to the original decision to lend, I'm satisfied that, it is more likely than not, further checks carried out at the time the lending was agreed would have shown similar information. So L2G would have realised that Miss E was unlikely to repay this loan without suffering adverse consequences or further financial difficulty and I therefore don't think it acted fairly and reasonably towards her.

I've also thought about what Miss E has said about not being made fully aware of the loan term or interest amount before agreeing to the loan. However, I'm satisfied that what I'm going to ask L2G to do to put things right (for having irresponsibly provided the loan) effectively places Miss E in the position where the interest is removed. This is effectively what I'd do even if I agreed the information Miss E was provided wasn't clear enough. So I don't think that I need to consider this matter as it wouldn't make a difference to my overall conclusions.

In reaching this conclusion I've also considered whether the lending relationship between L2G and Miss E might have been unfair to Miss E under Section 140A of the Consumer Credit Act 1974 ("CCA").

However, I'm satisfied that what I'm directing L2G to do results in fair compensation for Miss E given the overall circumstances of her complaint. For the reasons I've explained, I'm also satisfied that, based on what I've seen, no additional award is appropriate in this case.

Putting things right

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

- removing all interest, fees and charges applied to the loan from the outset. The payments Miss E made, if any, should be deducted from the new starting balance – the £400 originally lent. If, in the unlikely event, that Miss E has already repaid more than £400 then L2G should treat any extra as overpayments. And any overpayments should be refunded to Miss E;
- adding interest at 8% per year simple on any overpayments, if any, from the date they were made by Miss E 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 E's credit file.
- if, as seems likely, an outstanding balance remains after all adjustments have been made, L2G should set up an affordable payment plan with Miss E. I would also encourage Miss E to maintain contact with L2G and co-operate with any steps that may be needed to review what she might, if anything, be able to repay going forward. Miss E may be able to complain to us – subject to any jurisdiction concerns – should she be unhappy with L2G's actions in relation to setting up any payment plan.

† HM Revenue & Customs requires L2G to take off tax from this interest. L2G must give Miss E 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 Miss E's complaint. L2G should put things right in the way that I've directed it to do so above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E to accept or reject my decision before 10 January 2025.

Georgina Arnott
Ombudsman