

The complaint

Miss K complains that Loans 2 Go Limited did not treat her appropriately in relation to a loan that she applied for by mistake.

What happened

I set out below Miss K's version of events and also Loans 2 Go's version of those same events.

Miss K's version of events

Miss K indicated initially that she was intoxicated in June 2022 when she applied online for a loan with Loans 2 Go. The next morning when she realised what she had done Miss K contacted Loans 2 Go to let it know she wanted to withdraw from the loan by repaying the capital and would do so immediately. She tried to pay the loan back by attempting to log into her online account, but this resulted in her being locked out of her account for two weeks. Therefore she could not make the payment this way. Further, Miss K found it impossible to get through to Loans 2 Go by phone.

Therefore Miss K tried a different approach. Miss K transferred the capital amount to Loans 2 Go via her account with a third party bank. Miss K emailed Loans 2 Go to ask it to acknowledge receipt of the transfer. However, it took weeks to reply and when it did, it told her it had not received the transfer. On further investigation Miss K found out her bank had blocked the transfer as it thought Miss K was being scammed.

In October 2022 Miss K copied Loans 2 Go into an email she sent to a third party. In that email she told the third party the following about taking out the loan:

"I remember taking this out when I unfortunately had a drink problem a few months ago".

Later, in January 2023, after a lot of to and fro between them, Loans 2 Go made a goodwill gesture to Miss K. The terms of the goodwill gesture were that if Miss K repaid the capital it would close the account. It gave her until 1 March 2023 to do this. But Miss K indicates Loans 2 Go did not act in good faith in relation to its goodwill gesture. She came to this conclusion for two reasons: First because Loans 2 Go sold the loan in January 2023. And second because when Miss K contacted Loans 2 Go on 1 March 2023 to ask it to give her until 31 March 2023 to pay off the capital it emailed her to say:

"Please be advised that we are unfortunately unable to extend the offer until the 31st of March 2023. The goodwill gesture offer was initially extended from 05/02/2023 to 01/03/2023 on the 9th of January 2023 and we received no correspondence from yourself during this time to update us on your circumstances. As we received no contact from yourself and we [sic] unable to discuss your options going forward."

Miss K tells us that as Loans 2 Go had already sold the loan before the deadline it gave her this shows it had no intention of honouring its offer. In addition, the email above made it clear that Loans 2 Go was saying it was too late for her to repay it. So even if she tried to repay it on 1 March 2023 it would not have accepted the payment. Therefore, according to Miss K both of these actions show that Loans 2 Go went back on its agreement with her, and this was unfair.

In addition, in any event, Miss K considers that Loans 2 Go has acted unfairly by keeping the account open and in applying interest to the loan.

Further, Miss K has received several communications from Loans 2 Go telling her she has arrears on her account. Miss K considers that she should never have received communications about arrears, because she had done everything she needed to do to withdraw from the loan. Therefore to her mind, she no longer had the loan. In addition, Miss K considers that in any event the tone of the communications has been inappropriate and that the communications should not have been sent at all once she told it she wanted to withdraw from the loan. This has led to her feeling as if she is being pursued in a manner which is intended to harass her.

Miss K wants Loans 2 Go to accept the repayment of the capital amount and to close her account. She also wants it to remove any information it has asked the credit reference agencies to register about the loan on her credit file.

For all of these reasons Miss K complained to Loans 2 Go.

Loans 2 Go's version of events

Loans 2 Go responded that it had no record of Miss K trying to contact it the day after she entered into the loan. Neither did it have any record of locking Miss K out of her online account for two weeks immediately after the loan began. Rather, its records show that Miss K complained to it, for the first time, 13 days after she applied for and received the loan. At this point, Miss K told it that she wanted to withdraw from the loan because she was not previously aware of the interest rate which she considered to be "*illegal*". She did not tell it at that point that she had been intoxicated when she applied for the loan.

Further, whilst Loans 2 Go recognised Miss K was unhappy about the rate of interest on the loan it did not think she had cause for complaint. It said this because it had told her about the interest rate as part of the application process, it had applied interest to the loan in line with the terms of the contract. Miss K had accepted those terms in applying for the loan. Therefore it did not consider it was acting unfairly by relying on those terms.

Moreover, Loans 2 Go pointed out that it had accepted Miss K's request to withdraw. As a result it had sent her information about how to withdraw from the loan. She'd had thirty days from the date Loans 2 Go accepted her request to withdraw from the loan to pay off what she owed. But Miss K had not withdrawn from the loan within the relevant time period.

Once the deadline to withdraw had passed Loans 2 Go contacted Miss K to let her know it had not received any payment from her. Therefore it had not been able to close her account. In addition, it let her know her account was now in arrears.

Thereafter, it had offered Miss K the opportunity to repay the loan early. Miss K chose not to repay the loan early. Rather, to date Miss K had made no payments whatsoever towards the loan.

Loans 2 Go apologised to Miss K because she had found its correspondence inconvenient and it told her that it had not intended to cause her any distress or be unsympathetic by sending out this correspondence. It explained the correspondence was generated automatically by its systems because Miss K's loan was in arrears.

In January 2023 despite the fact that the withdrawal period had long since passed Loans 2 Go told Miss K that if she repaid the original amount she borrowed by 5 February 2023, it would close the account. Miss K responded asking it to extend the deadline to 1 March 2023. She had indicated that she needed until 1 March as that would be her next payday and she could not pay it before then. Loans 2 Go extended the deadline until 1 March 2023. But Miss K did not make any payment. Instead she contacted it on 2 March 2023, asking for more time, but it declined to give her this, for the reasons set out in its email, which I've copied above.

For all of these reasons Loans 2 Go does not consider it has done anything wrong. It therefore did not accept Miss K's stance that it has to do more than it has already done.

What happened after Miss K complained to our service

Dissatisfied, Miss K complained to our service.

Once Miss K's complaint was with us she gave us some further information she told us that when she took out the loan she was taking anti-depressants. She explained she did not initially remember taking out the loan for this reason.

Moreover, Miss K told us when she contacted Loans 2 Go on 1 March 2023 she told it, if she could not get an extension until 31 March 2023 then she would pay it immediately. But its email made it clear that it would have refused to accept the payment from her. That is why she did not pay it on 1 March 2023 after it refused to extend the deadline.

One of our investigators looked into Miss K's complaint. Our investigator did not recommend that Miss K's complaint be upheld.

Loans 2 Go accepted our investigator's recommendation, Miss K did not. In brief, in rejecting our investigator's recommendation Miss K reiterated her previous stance. She also made it clear that she does not intend to pay Loans 2 Go anything more than the sum she initially borrowed.

Miss K asked that an ombudsman review her complaint.

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.

First, I'm very aware that I've summarised this complaint in far less detail than the parties and I've done so using my own words. I'm not going to respond to every single point made by all the parties involved. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here.

Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. Rather, I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome.

Miss K and Loans 2 Go disagree about several of the key issues in this complaint. Where the evidence is incomplete, inconclusive, or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.

Vulnerability

Miss K has told us that when she entered into the loan she was intoxicated. This would suggest she was a vulnerable consumer when she took out the loan. It might also suggest she lacked capacity temporarily when she entered into the loan.

A vulnerable consumer is someone who, due to their personal circumstances, is especially susceptible to harm, particularly when a financial business is not acting with appropriate levels of care.

Loan 2 Go's regulator the Financial Conduct Authority expects financial businesses to provide their customers with a level of care that is appropriate given the characteristics of the customers themselves. The level of care that is appropriate for vulnerable consumers may be different from that for others and financial businesses should take particular care to ensure they are treated fairly.

Therefore if I found that Miss K was a vulnerable consumer, and that Loans 2 Go knew or ought reasonably to have known this I'd have to look at whether Loans 2 Go treated Miss K appropriately due to her vulnerability. This might mean it had to do more for her than it might have done for a consumer who was not vulnerable.

However, the question of Miss K's vulnerability in relation to this complaint is not clear-cut. As I've mentioned above Miss K told us and she told a third party that she entered into the agreement when intoxicated. But based on the information I've seen, she did not mention this to Loans 2 Go until October 2022, months after the event, and she has not explained why she did not say anything sooner. Rather, at the time, based on Loan 2 G's records which include communications from Miss K, she told Loans 2 Go she wanted to withdraw from the agreement because she'd entered into what she thought was a bad bargain. I might have expected in these circumstance that Miss K would have told Loans 2 Go about her drink problem immediately, if that is what had caused her to enter into the loan that she now wanted to withdraw from.

In addition, Miss K has been inconsistent in what she has said about what made her vulnerable in June 2022. At first she said it was due to intoxication then later she told us she'd been taking antidepressants in June 2022, and they caused her not to realise what she was doing when she entered into the loan. It is possible that Miss K was both intoxicated and using anti-depressants in June 2022. And it is possible that it was the combination of both that caused her to enter into the loan. But that is not what she has told us.

When I bear in mind these discrepancies, I have some difficulty accepting the accuracy of Miss K's recollections about this point. It follows that I am not satisfied on balance, that when she entered into the agreement she was intoxicated and/or under the influence of prescription drugs and these clouded her judgement or indeed meant she lacked capacity. I am not satisfied on balance therefore that Miss K was a vulnerable consumer when she entered into the loan.

In any event, it appears that it was only in October 2022 that Loans 2 Go, was told that Miss K had previously had a drink problem. Therefore it was not on notice before then about her drink problem. Moreover, by the time Miss K mentioned this it appears her drink problem was a thing of the past. So I don't find that Loans 2 Go ought to have taken further action at this point in response to what Miss K said about her drinking problem in the past.

Withdrawal from the loan

That said, when any customer contacts a financial business within 14 days of taking out a loan and asks to withdraw from the loan I'd expect the business to respond to that request. Specifically, I'd expect that business to provide information to the consumer about how to withdraw.

Miss K tells us she tried to withdraw from the loan the day after she entered into it. But aside from what she says about this, I've not seen any information that supports this, such as something to show she got in contact with Loans 2 Go at this point. Miss K also says she was "locked out" of her online account for two weeks by Loans 2 Go. But the information I've seen does not support that version of events. Rather it shows that Miss K did not contact Loans 2 Go to withdraw from their contract until 13 days in. At that point Loans 2 Go responded appropriately.

It is regrettable that Miss K's transfer was stopped by her bank. But I can't fairly say Loans 2 Go has to take responsibility for that.

Moreover, I take on board that Loans 2 Go did not respond as quickly as Miss K thought it should when she asked it to confirm receipt of her transfer. But I don't think that this really caused a problem as far as the withdrawal from the loan went. I say this because I think it is likely all Miss K had to do was take a look at her account with her own bank and she would

have seen that the money had not left her account. That in turn would most likely have led to her finding out what her bank had done.

Goodwill gesture

I note that Miss K says she contacted Loans 2 Go on 1 March, whereas Loans 2 Go says the contact happened on 2 March. I don't think this point is crucial here because whether the contact happened on 1 March or 2 March Loans 2 Go has not raised this as an issue. Rather it seems to have been prepared to accept for the purposes of this complaint that Miss K contacted it on 1 March, so I've done the same since this point is not being argued.

I think that Loans 2 Go went further than it needed to have done when it made its goodwill offer that should Miss K pay off the capital by 1 March 2023 it would close the account. Miss K complains that it was never really going to keep its word about this because it sold the loan and would not accept payment on 1 March 2023 when she offered it. But I don't agree, and I'll explain why below.

- I realise that Miss K thinks that because Loans 2 Go had already sold the loan before 1 March 2023 that would have prevented it from closing the account. But that's not the case, this is a fairly common scenario, what the original lender does is buy the debt back and then close the account.
- Miss K also thinks that the email which I quoted in the "*what happened*" section above means that Loans 2 Go was saying it would not accept payment even though she offered to pay it should it not want to extend the deadline. I can't see she said to Loans 2 Go if you don't agree to extend the deadline, I'll pay you today. Loans 2 Go's account notes seem to have captured all of the communications between them about this point. I've no reason to think these records are inaccurate. I can't see Miss K offers to pay should her request be declined.
- Moreover, neither do I agree that Loans 2 Go's email reads like it would not accept payment on 1 March 2023. I recognise that Miss K suggests it does. But I can't fairly hold Loans 2 Go to account if she formed that impression.

I also note that Miss K left it until the last minute before she asked Loans 2 Go for an extension. She has not explained why this was. I don't think it is unreasonable that in the circumstances Loans 2 Go was not prepared to extend the deadline again.

The contractual interest rate

Miss K complains about the interest rate. Loans 2 Go tells us about the process Miss K had to go through to apply for the loan online. I see no reason why it would have departed from its normal procedure in this case.

I'm satisfied that the process gave Miss K a reasonable opportunity to understand the terms of the loan including the interest rate. Moreover, she agreed to the loan. And I think is reasonable to conclude that where a party enters into an agreement that they've had a fair opportunity to understand, and they've gone ahead and contracted then they intended to be bound by it. This is what I'm satisfied happened here.

It follows that for all of these reasons, I am persuaded that it is reasonable that Loans 2 Go can rely on the interest rate provisions in the loan. In other words, I've no proper basis to say it must change the interest rate or must not apply it.

The communications from Loans 2 Go about the arrears

Miss K felt harassed by some of the communications Loans 2 Go sent her. Loans 2 Go says these were systems generated communications. Be that as it may they still needed to be appropriate. I've had a look at what it sent, and I don't find their tone inappropriate. Nothing about the frequency or the timing of those communications appears to me to be inappropriate either.

I appreciate that Miss K feels strongly that she had done what she needed to do in order to withdraw from the loan, therefore she no longer was bound by the loan. But that was not the reality of the situation. Rather she had a legally binding loan on the face of it and she was in arrears. In that situation, Loans 2 Go did nothing wrong in sending her communications about these arrears. Indeed it would have put itself in the wrong if it had not sent her these communications.

For all of these reasons I have no proper basis for telling Loans 2 Go it has to do anything further.

My final decision

My final decision is that I don't uphold Miss K's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 13 September 2023.

Joyce Gordon
Ombudsman