

## **The complaint**

Mrs S complains about a personal loan provided to her by Loans 2 Go Limited, trading as Loans 2 Go, ("L2G"), which she says was unaffordable.

## **What happened**

L2G provided Mrs S with a loan of £750 on 9 January 2019. The interest rate was 207.6% (1,013.2% APR). The loan was to be repaid over 18 months with monthly repayments of £171.42. If Mrs S made each payment when it was due, she'd pay £3,086.56 in total. The loan was repaid in April 2020.

Mrs S says that she had eleven open payday loans, two bank loans, various credit cards and other debts at the time she applied for the loan. She also needed to borrow from family members. And she had a very serious gambling addiction. Mrs S said that if L2G had done proper checks, it would have seen that she was in very sizeable debt.

In its final response letter L2G said that Mrs S had declared her income as £6,027 but it verified that she received a monthly average income of around £5,534. L2G said that Mrs S declared her expenditure to be £4,700 but it calculated her expenditure to total £5,361.53 following its review of Mrs S's credit report and it also deducted 5% of her income as a buffer for any fluctuations in Mrs S's monthly income. This left a disposable income of £172.42. After the monthly loan payment of £171.42, this left a disposable income of £1. L2G concluded that Mrs S had enough disposable income to afford the contractual repayments.

## *Our adjudicator's view*

Our adjudicator assessed the complaint and recommended that it be upheld.

L2G disagreed. It said that it asked its credit reference agency to verify if the bank account provided by Mrs S received enough income over the previous six months to afford the loan. L2G said that Mrs S had a decent income and disposable income to afford its monthly contractual instalments. It also did a check on Mrs S's credit report which didn't show any adverse information such as accounts that had entered a defaulting or delinquent status within the last three years or evidence of any county court judgements, individual voluntary arrangements or bankruptcy. L2G said that Mrs S was up to date with all her active accounts and had settled quite a few loans prior to taking out the loan which was a clear indication that she was managing her finances well. It was satisfied with its level of checks. It understood from the adjudicator's view that Mrs S had provided this service with her bank statements which showed she was spending a lot on gambling. But it didn't believe that it needed to review Mrs S's bank statements before agreeing to the loan. L2G also referred to other decisions of this service which supported this view.

## *My provisional decision*

After considering all the evidence, I issued a provisional decision on this complaint to Mrs S and to L2G on 16 September 2020. I summarise my findings:

I said that intended to reach the same overall conclusion as our adjudicator, but was doing so for different reasons. So, in order that both parties could comment on those reasons, I was issuing a provisional decision.

I'd noted that when L2G lent to Mrs S the regulator was the Financial Conduct Authority and relevant regulations and guidance included its Consumer Credit Sourcebook (CONC). L2G was entering into a regulated credit agreement. So, it had to carry out a reasonable assessment of Mrs S's creditworthiness before it entered the agreement. This meant that L2G had to consider both the risk to it that Mrs S wouldn't make the repayments under the agreement when due, and the risk to Mrs S of not being able to make these repayments. In particular, L2G had to consider Mrs S's ability to make repayments under the agreement as they fell due over the life of the agreement, without her having to borrow to meet the repayments, without her failing to make any other repayment she had a contractual or statutory duty to make, and without the repayments having a significant adverse effect on her financial situation.

I'd said that the rules didn't set out any specific checks which must be completed to assess creditworthiness. But the lender should take into account the borrower's income (over the full term of the loan) and their ongoing expenditure for living expenses and other debts. Whilst it was down to the lender to decide what specific checks it wished to carry out these should be reasonable and proportionate to the type and amount of credit being provided, the length of the term, the frequency and amount of the repayments and the total cost of the credit. So, a lender's assessment of creditworthiness needed to be flexible and what was appropriate for one person might not be for another. And what might be sufficient for a borrower in one circumstance might not be so for the same borrower in other circumstances.

In general, I'd expect a lender to require more assurance the greater the potential risk to the consumer of not being able to repay the credit in a sustainable way. So, for example, I'd expect a lender to seek more assurance by carrying out more detailed checks

- the *lower* a consumer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the longer the period of time a borrower would be indebted for (reflecting the fact that the total cost of credit was likely to be greater and the borrower was required to make repayments for an extended period).

Bearing all of this in mind, in coming to a decision on Mrs S's case, I'd considered the following questions:

- Did L2G complete reasonable and proportionate checks when assessing Mrs S's loan application to satisfy itself that she would be able to repay the loan in a sustainable way? If not, what would reasonable and proportionate checks have shown?
- Did L2G make a fair lending decision?

I'd said that L2G had gathered some information from Mrs S about her income and expenses before it agreed the loan. It had also carried out a credit check.

I'd noted that L2G had said in its final response letter that Mrs S would have had just £1 disposable income remaining after payment of the monthly loan repayments. But I'd also

noted that it had deducted 5% of her income as a buffer to account for expenditure fluctuations. So, taking this amount into account, I could see that L2G might have thought that Mrs S would have been left with a reasonable amount for unforeseen expenses.

I'd also reviewed L2G's credit checks. L2G was aware from these that Mrs S had a total credit balance of £45,868 outstanding. It would have been aware that Mrs S had four credit cards and that she was over the respective cards' limits on three of the cards and near the credit limit on the remaining card. L2G would also have seen that Mrs S's two current accounts were overdrawn (a total of around £5,300 overdrawn) and that she had four other outstanding loans - three of these had been taken out in the previous nine months (the latest in November 2018) with an outstanding total balance of around £18,450. She'd also taken out a short term loan at the end of October 2018 which had a balance of £317. I'd thought all this should have caused L2G concerns.

L2G would also have been aware from its credit checks that Mrs S had repaid loans totalling £705 in October 2018 and she'd repaid loans totalling £850 in November 2018. The credit checks showed that Mrs S had taken out new loans within five days of these loans being repaid. I'd thought it was likely that Mrs S needed to take out new loans in October and November 2018 in order to fill a hole in her finances that was made by repaying her earlier loans.

I'd thought L2G ought to have been concerned about Mrs S's ability to repay its loan out of her usual means, without borrowing, as she wasn't managing to do so with her existing debt. It was clear that her finances were already pressured, and she wasn't making any inroads into her existing debt. Not only could she not repay her large amount of existing debt, but she'd also taken on more debt less than two months earlier. And it wasn't likely she would be able to meet further debt sustainably if she was just servicing her existing debt.

On balance, I didn't think L2G had treated Mrs S fairly when it agreed to lend to her based on the information it would have seen on its credit checks because this showed it was likely that agreeing more credit for her would simply add to her debt levels. At the least, I thought it would have been reasonable and proportionate for L2G to have looked into Mrs S's spending in more detail before doing so.

Mrs S had provided her bank statements from around the time she'd applied for the loan. I wasn't suggesting here that this was the check that L2G should have done. But I thought looking at her bank statements gave me the best picture of what the lender should have seen. Had it sought some verification of Mrs S's spending, I thought L2G would've been in a better position to understand Mrs S's financial situation before it decided to lend to her.

Had L2G looked into Mrs S's finances in more depth, I thought it would have likely found out that she was reliant on short term lending. She had at least ten outstanding short term loans. I could also see that Mrs S had borrowed additional short term loans in the month before L2G's loan as she'd taken out a further £1,000. So, it was clear that further checks wouldn't have provided the assurance L2G needed.

As Mrs S was borrowing a significant amount of short term loans each month just to fund her existing expenditure and credit commitments, I thought there was a very real prospect that she would have needed to borrow again in order to repay her new loan and that would have likely had a significant adverse effect on her financial situation.

Overall, I thought L2G had treated Mrs S unfairly when it agreed to lend to her, and I was satisfied this complaint should be upheld.

I'd noted that L2G had referred to other decisions made by this service that had been published on our website. But I said that we decided each case on its own merits and it wasn't always appropriate to compare the outcomes of complaints without a detailed understanding of the specific facts of each complaint.

Subject to any further representations by Mrs S or L2G my provisional decision was that I intended to uphold this complaint and say that L2G should put things right as shown below.

### **Putting things right – what L2G needs to do**

1. Refund all interest and charges Mrs S paid on the loan;
2. Pay interest of 8% simple a year on such refunded interest and charges from the date they were paid to the date of settlement\*; and
3. Remove adverse entries about the loan from Mrs S's credit file;

\*HM Revenue & Customs requires L2G to take off tax from this interest. L2G must give Mrs S a certificate showing how much tax it's taken off if she asks for one.

L2G hasn't provided any further information in response to my provisional decision.

Mrs S responded to my provisional decision to say that she had nothing further to add.

### **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.

Given that Mrs S and L2G have given me nothing further to consider, I see no reason to depart from the conclusions I reached in my provisional decision. It follows that I uphold the complaint and require L2G to put things right as set out below.

### **My final decision**

My decision is that I uphold this complaint. In full and final settlement of this complaint, I order Loans 2 Go Limited to take the steps set out below in order to compensate Mrs S:-

1. Refund all interest and charges Mrs S paid on the loan;
2. Pay interest of 8% simple a year on such refunded interest and charges from the date they were paid to the date of settlement\*; and
3. Remove adverse entries about the loan from Mrs S's credit file;

\*HM Revenue & Customs requires L2G to take off tax from this interest. L2G must give Mrs S a certificate showing how much tax it's taken off if she asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 18 November 2020.

Roslyn Rawson

**Ombudsman**