DRN-2804068

The complaint

Mr Y complains that four personal loans provided to him by Loans 2 Go Limited, trading as Loans 2 Go, ("L2G"), were unaffordable

What happened

Mr Y was given four loans by L2G from May 2019 to August 2019. The loans have been repaid. A summary of Mr Y's borrowing history is as follows:-

Loan number	Date of loan	Date of loan repayment	Loan amount	Number of monthly repayments	Monthly repayment amounts
1.	4/5/2019	16/5/2019	£650	18	£148.56
2.	25/5/2019	25/6/2019	£750	18	£171.42
3.	4/7/2019	30/7/2019	£650	18	£148.56
4.	1/8/2019	9/9/2019	£500	18	£114.28

Mr Y said that L2G had lent him money irresponsibly. A simple credit check would have shown that he had a history of sustained borrowing and would have absolutely no means of paying back such incredibly high interest loans. This was ignored as was the fact that he kept cancelling loans with them within 14 days and then took out a new loan. He ended up having to borrow other high interest loans and from family in order to be able to cancel L2G's loans.

In its final response letter, L2G said that it had conducted a thorough affordability assessment prior to approving the loans. It considered Mr Y's declared income which it verified via an income verification tool and it also reviewed Mr Y's credit file. L2G also considered Mr Y's declared expenditure and added an additional amount for expenses such as rent/mortgage and other household expenditure as well as credit commitments. It noted that Mr Y had said that he paid nothing for credit commitments. L2G discounted Mr Y's income by a buffer of 5% to account for any fluctuations in his monthly expenditure. After doing this, L2G said that Mr Y was left with sufficient funds to deem the loans to be affordable. L2G said it took into consideration all the available information whilst calculating the affordability of the loans taken out with it, and it was determined that Mr Y had enough disposable income to afford his contractual instalments.

Our adjudicator's view

Our adjudicator recommended that Mr Y's complaint about Loans 3 and 4 should be upheld. He said that L2G's checks for Loans 1 and 2 were proportionate based on the term and the cost of these loans. He didn't think there was anything in the information L2G gathered which meant it shouldn't have lent Loans 1 and 2 to Mr Y. But the adjudicator said that the results of the checks for Loan 3 showed that Mr Y's financial situation had deteriorated significantly since Loan 1. Mr Y's total overall debt had increased by around £6,000 in around a month and he'd opened three new overdraft accounts and two accounts were at their maximum limit. The adjudicator said that this suggested that Mr Y was experiencing problems managing money. The adjudicator said that Mr Y took out Loan 4 only two days after repaying Loan 3, which meant he had requested his fourth loan with L2G in three months. He said that this should again have suggested that Mr Y was experiencing problems managing money and a reliance on unsecured credit.

L2G accepted the adjudicator's view. It said that the amount to be paid to settle Loans 3 and 4 totalled £218.47 including statutory interest. The amount of interest to be refunded on Loan 3 was £95.68, and £104.71 was to be refunded on Loan 4. Mr Y hadn't incurred any charges.

Mr Y disagreed. He said that the figures quoted by L2G didn't match what he'd actually paid.

The adjudicator provided a breakdown to Mr Y of L2G's offer to show that the interest to be refunded by L2G was correct. But Mr Y wanted his complaint about all his loans to be referred to an ombudsman.

As this complaint hadn't been resolved informally, it was passed to me, as an ombudsman, to review and resolve.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mr Y and to L2G on 7 April 2021. I summarise my findings:

As L2G had agreed with the adjudicator's recommendations regarding Loans 3 and 4, I said that I didn't propose to investigate these loans but would include the redress for them within the award section.

I noted that when L2G lent to Mr Y the regulator was the Financial Conduct Authority and relevant regulations and guidance included its Consumer Credit Sourcebook (CONC).

L2G was entering into regulated credit agreements. So, it had to carry out a reasonable assessment of Mr Y's creditworthiness before it entered into the agreements. This meant that L2G had to consider both the risk to it that Mr Y wouldn't make the repayments under the agreements when due, and the risk to Mr Y of not being able to make these repayments.

In particular, L2G had to consider Mr Y's ability to make repayments under the agreements as they fell due over the life of the agreements, without him having to borrow to meet the repayments, without him failing to make any other repayment he had a contractual or statutory duty to make, and without the repayments having a significant adverse effect on his financial situation.

I'd explained that the rules don'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 is down to the lender to decide what specific checks it wishes 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 needs to be flexible and what is 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 Mr Y’s case, I’d considered the following questions:

- Did L2G complete reasonable and proportionate checks when assessing Mr Y’s loan applications to satisfy itself that he would be able to repay the loans in a sustainable way? If not, what would reasonable and proportionate checks have shown?
- Did L2G make fair lending decisions?

Did L2G complete reasonable and proportionate checks when assessing Mr Y’s loan applications to satisfy itself that he would be able to repay the loans in a sustainable way?

L2G gathered some information from Mr Y about his income and expenses before it agreed each loan. It also carried out a credit check.

Loan 1

Loan 1 was for £650. The interest rate was 207.6% (1,013.2% APR). The loan was to be repaid over 18 months with monthly repayments of £148.56. If Mr Y made each payment when it was due, he’d pay £2,674.08 in total.

I’d reviewed L2G’s credit checks before Loan 1. The lender would have been aware from these that Mr Y wasn’t in an Individual Voluntary Arrangement, he wasn’t bankrupt and there were no county court judgements against him. There were also no defaulted accounts in the six months prior to the loan application.

But, L2G would also likely have seen that Mr Y’s current account had an overdraft limit of £1,250 and that his overdrawn balance was at its limit. I’d also noted that Mr Y had two outstanding loans which he’d taken out within the previous four months. It would have seen from its credit checks that Mr Y needed to borrow short term loans in December 2018 and January 2019 for £300 and £400 respectively. Whilst these were each repaid the following month, Mr Y had needed to borrow an additional loan in January 2019 for £72 which was still outstanding, and he’d needed to borrow another loan for £250 in February 2019 which was still outstanding. Altogether, I thought Mr Y’s relatively recent need for expensive short term credit together with his current account at its overdraft limit ought to have reasonably caused concerns as it appeared that Mr Y’s finances might be strained, despite Mr Y’s relatively large declared disposable income.

I was also aware that a lender’s credit checks might not reveal the full extent of a borrower’s credit commitments. L2G would likely be aware of this too. The information it sees is not necessarily up to date. A lender might only see a small portion of a borrower’s credit file, or some data might be missing or anonymised. I was also aware that not all lenders reported to the same credit reference agencies.

L2G was also aware that Mr Y was entering into an expensive loan agreement. In his application Mr Y had declared a monthly income of £1,700 and total expenses of £750. He’d declared no spending on credit commitments although L2G would have likely known from its credit checks that this wasn't the case and it increased his expenditure by around £130 to take account of these. It also seemed that L2G had considered Mr Y's living costs to be low as it had increased these by around £200. It had also reduced Mr Y's monthly income to £1,398.99 before reducing it further by 5% as a buffer to account for any fluctuations in his expenditure. So, I could see that L2G wasn't confident in the income and expenditure amounts declared by Mr Y.

I also thought L2G might have been concerned as to why someone with a relatively large amount of available income (according to Mr Y's declared income and expenses) would need to borrow expensive credit. L2G was aware that Mr Y's declared income and expenses left him with a disposable income of £950. I have to question just why it was thought that Mr Y needed to borrow £650 on such disadvantageous terms if he had a declared monthly disposable income in excess of this amount.

I could also see that L2G's analysis of Mr Y's income and expenditure showed discrepancies between its checks and the amounts he'd declared which were significantly wide.

I appreciated that L2G had said that it used a higher expenditure figure and a lower income figure. But I wasn't satisfied that L2G's checks had gone far enough. I thought there was enough from what it had found on its checks for it to have taken its checks further. The loan was running for 18 months. Given the length of time Mr Y was committing to repay the credit and what L2G had found on its checks, I didn't think its checks were sufficient to get a clear picture of Mr Y's finances at the time and for L2G to be confident that Mr Y could repay the loan without having to borrow to meet the repayments, without failing to make any contractual or statutory payments and without the repayments having a significant adverse impact on his financial situation.

L2G was required to establish whether Mr Y could make his loan repayments without experiencing adverse consequences and not just to ascertain whether the loan repayments were technically affordable on a strict pounds and pence calculation. It could have done this by, for example, requesting bank statements from Mr Y, asking for copies of bills and/or receipts for his expenses and by asking him for more information about his existing credit commitments. L2G didn't say that it took steps to do this, other than to verify Mr Y's income using an online income verification tool. So overall, I didn't think the checks L2G had carried out on this occasion were reasonable and proportionate.

Loan 2

Mr Y repaid Loan 1 12 days after taking it out. Mr Y took out Loan 2 just nine days after repaying his previous loan. I thought L2G ought to have been concerned by his early repayment of Loan 1 and his need to borrow expensive credit again shortly after. That might be the sort of behaviour that would indicate that someone was facing problems managing their money. The loan amount had increased to £750 and the monthly loan repayments had increased to £171.42 and still needed to be repaid over 18 months. The interest rate was 207.6%, (1,013.2% APR). If Mr Y made each payment when it was due, he'd pay £3,085.56 in total.

I'd reviewed L2G's credit checks before Loan 2. As Mr Y's application for Loan 2 was made only three weeks after his application for Loan 1, the credit checks before the two loans were similar. Whilst the balances on the two outstanding loans had decreased, I could see that Mr Y had exceeded the overdraft limit on his current account by £29. His credit score had decreased from 476 to 438 and there were six credit searches in the previous month which I thought indicated a need for credit. For similar reasons as for Loan 1, I thought the checks should have caused L2G concerns. And as I'd set out above, L2G's credit checks might not have revealed the full extent of Mr Y's other credit commitments.

In his loan application Mr Y had declared a monthly income of £1,800 and total expenses of £675 with no spending on credit commitments although L2G would again have likely known from its credit checks that this wasn't the case and it had increased his expenditure by around £132 to take account of these. It also seemed that L2G had considered Mr Y's living costs to be low as it had increased these by around £200. It had also reduced Mr Y's monthly income to £1,358.30 before reducing it further by 5% as a buffer to account for any fluctuations in his expenditure. So, I could again see that L2G wasn't confident in the income and expenditure amounts declared by Mr Y.

I again thought L2G might have been concerned as to why someone with a relatively large amount of available income (according to his declared income and expenses) would need to borrow expensive credit. L2G was aware that Mr Y's declared income and expenses left him with a disposable income of £1,125. This seemed unlikely given that he wanted to borrow £750.

I could again see that L2G's analysis of Mr Y's income and expenditure showed discrepancies between its checks and the amounts he'd declared which were significantly wide.

I appreciated that L2G had said that it used a higher expenditure figure and a lower income figure. But for the same reasons as for Loan 1, I wasn't satisfied that L2G's checks had gone far enough. I again thought L2G should reasonably have taken steps to gain a more thorough understanding of Mr Y's financial position in order to satisfy itself that he could repay the loan without having to borrow to meet the repayments, without failing to make any contractual or statutory payments and without the repayments having a significant adverse impact on his financial situation. I couldn't see that L2G had taken steps to do this, other than to verify Mr Y's income using an online tool. So overall, I didn't think the checks L2G had carried out on this occasion were reasonable and proportionate.

Although I didn't think that L2G had carried out reasonable and proportionate checks before Loans 1 and 2, that in itself didn't mean that Mr Y's complaint about these loans should succeed. I also needed to be persuaded that what I'd considered to be proportionate checks would have shown L2G that Mr Y couldn't sustainably afford Loans 1 and 2. So, I'd looked at Mr Y's credit report and bank statements to see what better checks would have shown L2G.

What would reasonable and proportionate checks have shown? And did L2G make fair lending decisions?

I'd thought about what L2G would've seen if it had done what I considered to be proportionate checks before Loans 1 and 2. I'd dealt with these loans together as they were just three weeks apart.

Mr Y had provided his credit report and his bank statements from around the time he'd applied for Loans 1 and 2. I wasn't suggesting that these were the checks that L2G should have done. But I thought looking at these gave me the best picture of what the lender was likely to have seen had it made better checks.

I'd reviewed Mr Y's spending on his bank statements. Worryingly, the statements showed that Mr Y was spending a substantial amount on gambling. He'd spent more than four times his declared income on gambling in April 2019 and his heavy gambling continued into May 2019. Mr Y's spending on gambling was frequent enough throughout those months that it was more likely than not that it would continue in the same pattern and posed a risk to

Mr Y being able to repay the loan sustainably. In these circumstances, I didn't think that L2G would have lent if it had known this, as I thought it ought to have if it had made better checks.

The credit report and statements also showed that Mr Y's financial circumstances were strained. He'd borrowed numerous short term loans to supplement his income in April 2019. These loans totalled at least £3,700. This suggested that Mr Y was reliant on short term lending.

So, I'd thought if L2G had carried out what I considered to be proportionate checks, it was likely it would have discovered Mr Y's relatively substantial expenditure on gambling and the full extent of Mr Y's financial commitments. I'd thought L2G should reasonably have realised that Mr Y was over committed financially and that he was having difficulty managing his finances. So, it was clear that further checks wouldn't have provided the assurance L2G needed. And I thought L2G ought reasonably to have realised that it was unlikely that Mr Y would've been able to sustainably repay his loans. So, it should reasonably have concluded that it had treated Mr Y unfairly when it agreed to lend to him.

I'd noted that L2G had said that Mr Y had enough disposable income to afford his contractual instalments. But it seemed to me that L2G was focussing on its calculation of whether the loan was affordable for Mr Y on a pounds and pence basis. But the lender was required to establish whether Mr Y could sustainably make his loan repayments – not just whether the loan payments were technically affordable on a strict pounds and pence calculation. The loan payments being affordable on this basis might be an indication that a consumer could sustainably make the repayments. But it didn't automatically follow that this was the case. And as a borrower shouldn't have to borrow further in order to make their payments, it followed that a lender should realise, or it ought fairly and reasonably to realise, that a borrower wouldn't be able to sustainably make their repayments if it was on notice that they were unlikely to be able to make their repayments without borrowing further.

So, subject to any further representations by Mr Y or L2G, my provisional decision was that I intended to say that Mr Y's complaint about Loans 1 and 2 should be upheld, and that L2G should put things right on those loans along with paying the compensation and taking the steps it had already agreed to do for Loans 3 and 4 as follows:

Putting things right – what L2G needs to do

L2G should

- Refund any interest and charges paid by Mr Y on Loans 1 to 4;
- Add simple interest at a rate of 8% per annum to each of these amounts from the date they were paid to the date of settlement*; and
- Remove any adverse information recorded on Mr Y's credit file in relation to Loans 1 to 4

* HM Revenue & Customs requires L2G to take off tax from this interest. L2G must give Mr Y a certificate showing how much tax it has taken off if he asks for one.

Mr Y responded to my provisional decision to say that he accepted it.

L2G hasn't provided a response to my provisional decision.

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 Mr Y has accepted my provisional decision and that both he 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 pay Mr Y some compensation and take the steps 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, trading as Loans 2 Go, to:-

1. Refund any interest and charges paid by Mr Y on Loans 1 to 4;
2. Add simple interest at a rate of 8% per annum to each of these amounts from the date they were paid to the date of settlement*; and
3. Remove any adverse information recorded on Mr Y’s credit file in relation to Loans 1 to 4

* HM Revenue & Customs requires L2G to take off tax from this interest. L2G must give Mr Y a certificate showing how much tax it has taken off if he asks for one.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr Y to accept or reject my decision before 7 June 2021.

Roslyn Rawson
Ombudsman