

The complaint

Ms N says S.D. Taylor Limited trading as Loans at Home (LaH), irresponsibly lent to her. She says that she was in a 'debt spiral' and she couldn't afford the loans. Ms N thinks LaH shouldn't have lent to her.

What happened

This complaint is about five home collected loans LaH provided to Ms N between September 2017 and August 2020. Some of the information I have been provided about the lending is in the table below.

loan	date taken	amount	instalments	date repaid
1	28/09/2017	£600	33	16/05/2018
2	16/05/2018	£1,000	45	27/03/2019
3	27/03/2019	£1,000	46	23/10/2019
4	23/10/2019	£1,700	46	26/08/2020
5	26/08/2020	£1,250	46	outstanding

Our adjudicator upheld Ms N's complaint and thought that loans 2 to 5 shouldn't have been approved. She thought that it was likely that Ms N couldn't afford the repayments for loan 2 and from loan 3 onwards the lending pattern itself looked to be harmful.

Ms N's representative didn't disagree with what the adjudicator said

LaH didn't respond to the adjudicator's assessment and so the complaint was passed to me.

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 set out our general approach to complaints about irresponsible lending – including all of the relevant rules, guidance and good industry practice – on our website. Broadly speaking, this all means that LaH needed to take reasonable steps to ensure it didn't lend irresponsibly. In practice, this means it should have carried out proportionate checks to make sure Ms N could repay her loans in a sustainable manner. Additionally, there may come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

Applying this to the circumstances of this particular complaint, I have reached the same outcome as our adjudicator, for essentially the same reasons.

Ms N didn't disagree with our adjudicator's opinion about loan 1. Because of this, I don't think there is any ongoing disagreement about this loan. So, I won't be making a decision about this lending. But it was part of the borrowing relationship Ms N had with LaH. So, it's something I will take into account when considering the other loans she took.

Our adjudicator thought the information from the point of sale showed that Ms N couldn't have repaid loan 2 in a sustainable manner as the repayment was too high a proportion of her declared income. I have independently reviewed the evidence of Mrs N's income and expenditure and have come to the same conclusion.

Ms N's income was recorded as being £108 a week. And her expenditure was recorded as being £53 a week. This is a very modest income and the £40 a week repayment to LaH was a very high proportion of this, and almost all of her disposable income. I can't see how Ms N could've managed these repayments sustainably. And there was very little to spare if she needed any further money, above her very modest expenditure. So, I don't think it's reasonable to say she could sustainably afford the repayments to this loan,

I've also considered the pattern of lending up to loan 3 and I think the lending history and pattern of lending itself clearly demonstrates that further lending would likely be unsustainable. So, I think LaH was also irresponsible to continue lending after this point.

As LaH hasn't responded I won't add anything further to this.

Putting things right

In deciding what redress LaH should fairly pay in this case I've thought about what might have happened had it stopped lending to Ms N from loan 2, as I'm satisfied it ought to have.

Clearly there are a great many possible, and all hypothetical, answers to that question.

For example, having been declined this lending Ms N may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between her and this particular lender which she may not have had with others. If this wasn't a viable option, she may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, she may have decided to approach a third-party lender with the same application, or indeed a different application (i.e. for more or less borrowing). But even if she had done that, the information that would have been available to such a lender and how she would (or ought to have) treated an application which may or may not have been the same is impossible to now accurately reconstruct. From what I've seen in this case, I certainly don't think I can fairly conclude there was a real and substantial chance that a new lender would have been able to lend to Ms N in a compliant way at this time.

Having thought about all of these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Ms N would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce LaH's liability in this case for what I'm satisfied it has done wrong and should put right.

LaH shouldn't have given Ms N loans 2 to 5.

If LaH has sold the outstanding debts LaH should buy these back if it is able to do so and then take the following steps. If LaH is not able to buy the debts back then LaH should liaise with the new debt owner to achieve the results outlined below.

A) LaH should add together the total of the repayments made by Ms N towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything it has already refunded.

B) LaH should calculate 8% simple interest* on the individual payments made by Ms N which were considered as part of “A”, calculated from the date Ms N originally made the payments, to the date the complaint is settled.

C) LaH should remove all interest, fees and charges from the balance on any upheld outstanding loans, and treat any repayments made by Ms N as though they had been repayments of the principal on all outstanding loans. If this results in Ms N having made overpayments then LaH should refund these overpayments with 8% simple interest* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled. LaH should then refund the amounts calculated in “A” and “B” and move to step “E”.

D) If there is still an outstanding balance then the amounts calculated in “A” and “B” should be used to repay any balance remaining on outstanding loans. If this results in a surplus then the surplus should be paid to Ms N. However, if there is still an outstanding balance then LaH should try to agree an affordable repayment plan with Ms N. LaH shouldn’t pursue outstanding balances made up of principal LaH has already written-off.

E) LaH should remove any adverse information recorded on Ms N’s credit file in relation to loan 2. The overall pattern of Ms N’s borrowing for loans 3 to 5 means any information recorded about them is adverse, so it should remove these loans entirely from Ms N’s credit file. LaH does not have to remove loan 5 from Ms N’s credit file until it has been repaid, but LaH should still remove any adverse information recorded about these loans.

*HM Revenue & Customs requires LaH to deduct tax from this interest. LaH should give Ms N a certificate showing how much tax LaH has deducted if she asks for one.

My final decision

For the reasons given above, I’m partially upholding Ms N’s complaint.

S.D. Taylor Limited should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Ms N to accept or reject my decision before 11 March 2022.

Andy Burlinson
Ombudsman