

The complaint

Mr C says S.D. Taylor Limited trading as Loans at Home (LaH) lent to him irresponsibly. He says that he couldn't afford the loan repayments and he frequently fell behind with them. He says that LaH continued to offer him loans when it knew he was struggling. He thinks it should've made better checks and not lent to him.

What happened

This complaint is about 12 home collected loans LaH provided to Mr C between August 2013 and November 2019. Some of the information I have been provided about the lending is in the table below.

Loan	Date Taken	Amount	Instalments	Date Repaid
1	14/08/2013	£200	32	11/12/2013
2	11/12/2013	£375	41	11/06/2014
3	11/06/2014	£500	41	10/12/2014
4	10/12/2014	£625	41	15/07/2015
5	15/07/2015	£500	32	23/12/2015
6	23/12/2015	£625	42	05/10/2016
7	05/10/2016	£625	45	25/10/2017
8	25/10/2017	£625	45	05/12/2018
9	13/12/2017	£125	45	12/12/2018
10	12/12/2018	£625	45	06/11/2019
11	12/12/2018	£250	45	06/11/2019
12	06/11/2019	£1,250	46	outstanding

Our adjudicator partially upheld the complaint. He thought that Mr C was having problems managing his money at loans 4 and 5. And that by loan 6 the lending pattern itself looked to be harmful.

LaH disagreed with the adjudicator's opinion. It said that Mr C didn't borrow excessive amounts and it didn't think the lending showed signs of being unsustainable. And Mr C didn't appear to have a large amount of other credit commitments.

As no agreement has been reached the complaint has been passed to me, an ombudsman, to make a final 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.

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.

LaH needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr C could repay the loans in a sustainable manner.

These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that LaH should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the *lower* a customer'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 *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

And the loan payments being affordable on a strict pounds and pence calculation might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. The industry regulator defines sustainable as being without undue difficulties and in particular the customer should be able to make repayments on time, while meeting other reasonable commitments; as well as without having to borrow to meet the repayments. And it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make their repayments sustainably if they're unlikely to be able to make their repayments without borrowing further.

I've decided to uphold Mr C's complaint in part, and I've explained why below.

Mr C accepted our adjudicators opinion about loans 1 to 3. Because of this I don't think there is any ongoing disagreement about these loans. And I agree that they weren't irresponsibly lent for the same reasons that the adjudicator said. I won't comment further given the lack of ongoing disagreement.

And these loans were part of the borrowing relationship Mr C had with LaH. So, they are something I will take into account when considering the other loans he took.

Mr C has essentially said that he was struggling to repay this lending, and he would typically fall behind on the repayments, and then take a new loan to cover these. And looking at what information I've been provided about the lending, this does seem to be the case. Mr C falls behind with his payments for loan 3. And this continues going forwards.

I appreciate the arrears amounts aren't large by loan 4, but I don't think that they have to be here. This is because Mr C's only source of income was benefits. And I think its reasonable to say that this income was modest. And so, if he was having payment problems he would struggle to make up any shortfall. Added to this the loan amounts had increased by a significant amount over a relatively short time. And Mr C was using a new loan to pay off his arrears.

So, having looked at everything, I agree that there were signs by loan 4 that Mr C was struggling to repay his loans sustainably.

I haven't looked in detail at loans 6 to 12 because I don't think that it is necessary to do so. Added to the above it's now clear by loan 6 that Mr C's indebtedness was unsustainable. I say this because:

- Mr C had been indebted to LaH for over three years now. I think this is a long time to be using this type of credit, given what I know about Mr C's circumstances.
- And as I've said above, Mr C was usually using a new loan to pay the arrears on his previous lending.
- So at loan 6, it seems clear to me that it was more likely than not, that Mr C was having to borrow further when he couldn't properly repay these loans. And he was not likely borrowing to meet a temporary shortfall in his income but to meet an ongoing need.
- Mr C didn't make any real inroads to the amount he owed LaH for some time. Loan 12 was taken out over six years after Mr C's first. And it was for a larger amount. Mr C had paid large amounts of interest to, in effect, service a debt to LaH over an extended period.

Given the above I think that Mr C also lost out because LaH continued to provide borrowing from loan 6 onwards.

So, overall, I'm upholding the complaint about loans 4 to 12 and LaH should put things right.

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 Mr C from loan 4, 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 Mr C may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between him and this particular lender which he may not have had with others. If this wasn't a viable option, he may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, he 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 he had done that, the information that would have been available to such a lender and how he 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 Mr C 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 Mr C 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 Mr C loans 4 to 12.

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 Mr C 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 Mr C which were considered as part of "A", calculated from the date Mr C 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 Mr C as though they had been repayments of the principal on all outstanding loans. If this results in Mr C 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 Mr C. However, if there is still an outstanding balance then LaH should try to agree an affordable repayment plan with Mr C.

E) LaH should remove any adverse information recorded on Mr C's credit file in relation to loans 4 and 5. The overall pattern of Mr C's borrowing for loans 6 to 12 means any information recorded about them is adverse, so it should remove these loans entirely from Mr C's credit file. LaH does not have to remove loan 12 from Mr C's credit file until it has been repaid, but LaH should still remove any adverse information recorded about this loans.

*HM Revenue & Customs requires LaH to deduct tax from this interest. LaH should give Mr C a certificate showing how much tax it has deducted, if he asks for one.

My final decision

For the reasons I've explained, I partly uphold Mr C's complaint.

S.D. Taylor Limited should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 5 April 2022.

Andy Burlinson
Ombudsman