DRN-3289248

The complaint

Mr G has complained that Logbook Money Limited ("LML") was irresponsible to have agreed a loan for him.

What happened

LML provided Mr G with a loan of £1,500 on 30 May 2020. The total amount of £4,200.30, including interest and charges, was to be repaid in 78 weekly instalments of £53.85.

This was a 'log book' loan, in other words it was granted on the basis that Mr G provided LML with a bill of sale for his car. This meant that if Mr G didn't make his loan repayments LML could potentially recoup its losses through the sale of the vehicle.

It seems from the statement of account that Mr G missed payments on a couple of occasions but made a double payment to catch up the following week. I understand Mr G settled his loan after six months in November 2020, and so paid just less than £2,400 in total.

Mr G said that LML was irresponsible to have agreed credit for him. He says he was spending large sums on gambling and had missed payments on a priority debt. Mr G says that had LML carried out sufficient checks it would have understood this and declined to lend to him.

One of our investigators looked into Mr G's complaint and recommended that it be upheld because they concluded LML had lent irresponsibly.

LML didn't agree with this recommendation. It said it performed adequate checks and it found the loan to be affordable for Mr G. It says the loan was for consolidation purposes and would effectively reduce the amounts being paid out by Mr G each month. LML also says that Mr G was engaging in a form of trading by using cryptocurrency. It says it would not consider trading on the stock market as a factor when lending and cryptocurrency must be considered in the same way.

LML asked for the complaint to come to an ombudsman to review and resolve. I issued a provisional decision on 9 November 2020 explaining why I planned to uphold Mr G's complaint. Mr G agreed with my provisional decision but LML did not and provided further comments for me to consider. I have reviewed everything again and this is my final decision on the matter.

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.

I've also considered the points LML made in response to my provisional decision. I appreciate that this will be very disappointing for LML but I remain of the view that Mr G's complaint should be upheld because I've concluded that it was irresponsible when it agreed to lend to him. I'll set out my reasoning and conclusions again, with reference to my provisional decision and the points LML made in response.

As before, I'll begin with the regulations. LML will be aware of the relevant regulations and how we consider irresponsible lending complaints so I won't go into detail on these points. I will summarise by saying that LML needed to check that Mr G could afford to meet his repayments without difficulty before agreeing credit for him. In other words, it needed to check he could make his repayments out of his usual income without having to borrow to meet them, while meeting his existing obligations and without the repayments having a significant adverse impact on his financial situation. The assessment needed to take into account the nature of the credit and Mr G's circumstances, and LML needed to have proper regard to the outcome of that assessment in respect of affordability risk.

With this in mind, my main consideration is whether or not LML treated Mr G fairly when it agreed to lend to him. I've thought about whether LML completed reasonable and proportionate checks when assessing his application to satisfy itself that he would be able to make his repayments without experiencing adverse consequences. I've also thought about the information it knew, and what it ought reasonably to have known.

I've reviewed the information LML relied on in making its lending decision. This included what Mr G said about his finances - he gave his net monthly income as £2,250 and his monthly expenditure as £1,902, which would seem to leave enough disposable income to meet the loan payments of approximately £230 a month. LML provided several call recordings which I've listened to. Mr G said he wished to use this loan to consolidate some recent expensive borrowing. He mentioned three loans which amounted to about £560 in repayments each month, though one had just a single payment left. He couldn't remember the total amount he needed to repay but he said he'd borrowed £1,000 for one and £300 for another.

LML also relied on an analysis of Mr G's bank transactions from the previous three months. It provided a copy of this analysis in a report, which confirmed Mr G's income and some of his expenses. The report calculated Mr G's 'standard' disposable monthly income as a minimum of £439 in March 2019 to over £1,000 in May. This wasn't quite consistent with what Mr G had told LML but the calculated disposable income didn't of itself raise the concern for LML that the loan would be unaffordable.

The report showed that Mr G had recently taken out several short term and high cost loans, including £1,800 across three loans just two weeks prior. It showed a personal loan (retail finance) and four credit cards. It also showed that Mr G had payments for priority debts returned on several occasions, for example for his car insurance and a utility bill.

In addition, the report showed that Mr G had high volumes of transfers to and from his account, aside from obvious living costs. The money coming in was via bank transfers, online payments or occasional cash deposits. The money going out was usually to a cryptocurrency exchange platform. These transfers reached several thousand pounds a month. Mr G says that the bank transfers were from his wife's account which he had access to, and the online deposits were withdrawals from his cryptocurrency account related to gambling. He's provided screenshots of his cryptocurrency account from May and June 2020 which show that he was spending the currency on an online gambling site.

The full transactional analysis contained in the report (which included the transfers) showed that Mr G wouldn't have had enough disposable income in the previous three months to meet the loan repayments with more money going out, on average, than coming in.

I said in my provisional decision that I wasn't sure that Mr G would have repaid less overall using this loan to consolidate his short term loans. But, leaving that aside, I thought it would have been a reasonable response from LML to have found out what these existing loan balances were or what settlement figures Mr G had been offered. Mr G had originally applied for £3,000 which LML declined to lend before offering £1,500. Mr G hadn't been able to say how much he needed to repay to settle these loans but, given the amounts he borrowed (which LML's account analysis confirmed), it's likely he'd need to repay more than what LML was offering to lend to him.

I've seen a copy of Mr G's credit file dated May 2020. This showed that the total he needed to repay for one of his existing loans was over £4,000. Mr G may have been able to repay some of his smaller loans, but I thought he was likely to continue to make his repayments for this one at least. Furthermore LML hadn't taken steps to check that Mr G would actually use the funds to clear some of his existing debt – indeed I could see that he continued to make payments to this large existing loan in the following months.

Given Mr G said he was borrowing for consolidation purposes and that LML could see payments to several credit cards, I also thought it would also have been reasonable for it to have enquired about his overall levels of debt. The report LML shared with us doesn't show how much Mr G had outstanding on revolving credit. His credit file showed that he owed almost £11,000 on credit and store cards. It didn't seem to me that Mr G was making more than the minimum repayments to these each month and this, alongside his missed priority payments, suggested that he was struggling to meet his existing commitments and wasn't making inroads into his debts. I provisionally concluded that further credit was likely to add to Mr G's level of indebtedness and LML could have confirmed this through further checks.It wasn't likely to agree the loan for him, armed with this knowledge, and so I provisionally found it had been irresponsible when it did so.

In response to my provisional decision LML said Mr G had stated that he wished to consolidate his debts and it was reasonable of it to take his statement of intentions in good faith. There was evidence that Mr G was paying his debts down (in other words meeting his payments on his short term loans) and, had he used the funds as he'd said he would, this loan would have put him in a better position. LML also said it was right and responsible to have reduced the loan amount from the requested £3,000 to £1,500, and that Mr G understood the loan terms and wasn't naive to the world of credit.

I'm afraid I can't conclude that using one expensive loan to consolidate others would put Mr G in a better position as he might well have paid more interest overall. It may not have reduced the amount he was spending on repaying debt each month as he needed to continue paying for some of his existing debts. LML may feel it was up to Mr G to decide whether or not consolidation was the right use of the loan, but this doesn't negate its responsibility to check that it wasn't simply increasing his indebtedness by providing it. I felt this was more likely, given how Mr G was managing his existing debts, and I remain of this view.

Turning to Mr G's spending on cryptocurrency. Mr G said that he used the cryptocurrency for gambling and he's provided evidence of this. LML said, in response to our initial investigation, that purchasing cryptocurrency wasn't automatically a sign of gambling. Mr G could have been trading in cryptocurrency, and trading wasn't an activity which would cause it concern.

In my provisional decision, I agreed with LML in that purchasing cryptocurrency was not necessarily indicative of gambling. I also agreed that what Mr G chose to spend his cryptocurrency on was not necessarily something it should take into consideration when making its lending decision. However, I found that Mr G was regularly spending large sums of money buying cryptocurrency to the extent that he was borrowing expensive credit, was not managing to meet some of his priority commitments or make inroads into his existing debts, and he was spending more than he had coming in. LML's report showed that the short term loans Mr G had taken out weeks before were consumed by his overdraft and his spending on cryptocurrency.

I'd said that I didn't know whether or not Mr G had access to funds other than his income to spend on purchasing cryptocurrency, or anything else for that matter. Nevertheless, I thought LML had enough information to see that this spending pattern was impacting adversely on Mr G's finances, had been for some time, and was likely to continue to do so. CONC 5.2A.25G states that indicators of a high level of affordability risk include circumstances where the total value of a customer's outstanding debts is high relative to their income or where there is a high likelihood that the customer will not make repayments by their due dates, both of which I thought were demonstrably present here. I provisionally concluded that LML was irresponsible when it agreed to lend to Mr G under these circumstances.

LML said in response to my provisional conclusions that it would have been reasonable to have discussed the transactions on Mr G's statements to have better understood his finances, given their frequency and volume. It said that these transactions may have been overlooked in its underwriting but too much time had passed to reliably tell whether they were missed or whether an explanation had been sought and accepted.

LML also said that, while mistakes had been made, it had genuinely tried to make sure the loan would be affordable for Mr G. It said that Mr G met his repayment for six months (with two exceptions) and it was highly unlikely that he would have borrowed lump sums from elsewhere to sustain the weekly repayments. LML said that Mr G had not provided any evidence that this loan was detrimental to his finances. It says it incurred costs to arrange the loan alongside associated business costs and that Mr G spent the funds for a purpose it didn't agree to.

I acknowledge LML's strength of feeling on this point. However, as it has now agreed, it made a mistake by not investigating or in how it considered Mr G's frequent and significant spending on cryptocurrency. As I'd explained in my provisional decision, I didn't think understanding more about Mr G's circumstances would have provided any reassurance to LML that this loan would help him reduce his outgoings to the extent that it would be affordable for him and would not cause him further harm. I think further checks would likely have confirmed that Mr G was having difficulty managing his existing debts and this, combined with his spending patterns, should have led LML to conclude that further credit would to add to Mr G's indebtedness and cause him financial difficulty.

I'd noted in my provisional decision that Mr G repaid the loan early, with a lump sum. I said it doesn't necessarily follow that Mr G managed to do so without borrowing from elsewhere or going without. Mr G says the money came from his wife's account and I've seen this transaction on his bank statements. I haven't seen evidence that Mr G had other sources of income or had surplus monthly income to cover such a lump payment. I think Mr G has lost out in that he paid interest and charges to borrow this money and potentially had his credit file adversely impacted. I am satisfied that, on balance, agreeing this loan was detrimental to Mr G's finances.

In summary, I have concluded that LML was irresponsible to lend on this occasion. I've set out below what LML needs to do to put things right for Mr G.

Putting things right

I think it's fair that Mr G repays the capital he borrowed as he's had the use of this. However, I don't think he should be liable for any interest or charges on this amount or have his credit record adversely impacted.

In order to put things right for Mr G, LML needs to:

a) Refund to Mr G all payments he made above the original amount of £1,500 he borrowed;
b) Add 8% simple interest per annum to these overpayments from the date they were paid to the date of refund; and
c) Remove any adverse information about this loan from Mr G's credit file; and
d) Revoke the Bill of Sale for Mr G's car if this is still in place and return any relevant documents to him if it hasn't already done so.

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

My final decision

For the reasons set out above, I am upholding Mr G's complaint about Logbook Money Limited and it should put things right as I've outlined.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 1 March 2022.

Michelle Boundy
Ombudsman