DRN-3784200

## The complaint

Mr B complains that Loans 2 Go Limited ("L2G") was irresponsible to lend to him as the loan was unaffordable.

## What happened

L2G agreed a loan of £420 for Mr B in February 2022. He owed £1,554 in total, to be repaid at £86 a month over 18 months (all figures rounded).

Mr B made six loan payments, though not all on time, before making a complaint to L2G in July 2022. He said L2G was irresponsible to have agreed to lend to him because the loan was unaffordable, and the interest rate was too high. He said he's missed payments on his existing financial commitments and been unable to meet some of his basis living costs. Mr B sent his bank statements from the time to L2G.

L2G didn't uphold Mr B's complaint. It reviewed his application again alongside the bank statements and found no evidence of financial detriment. It said that although Mr B was using his overdraft this wasn't a reason to decline to lend to him, and that he was made aware of the interest rate prior to accepting the loan. L2G offered to reduce the outstanding balance on Mr B's loan by a third (from £1,036 to £639) as a gesture of good will in order to resolve the complaint. It later offered to reduce the balance by half (to £469).

Mr B referred his complaint to us. Our investigator recommended that the complaint be upheld because L2G should have seen from the information it had that Mr B was having difficulty with his finances. Mr B had defaults on his credit file and a significant amount of existing debt. They concluded that the loan was unlikely to be affordable for him. L2G didn't agree with this recommendation and asked for the complaint to come to an ombudsman to review and resolve.

## 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 had regard to the regulator's rules and guidance on responsible lending (set out in its consumer credit handbook – CONC) which lenders, such as L2G, need to abide by. L2G will be aware of these, and our approach to this type of lending is set out on our website, so I won't refer to the regulations in detail here but will summarise and refer to them where appropriate.

Before entering into the credit agreement, L2G needed to check that Mr B could afford to meet his repayments out of his usual means for the term of the loan. This means he should be able to make his repayments without having to borrow further, while meeting existing commitments and without experiencing adverse consequences. The checks L2G carried out needed to be proportionate to the nature of the credit (the amount borrowed, for example) and to Mr B's particular circumstances.

The overarching requirement was that L2G needed to pay due regard to Mr B's interests and treat him fairly. CONC 2.2.2G(1) gave an example of contravening this as 'targeting customers with regulated credit agreements which are unsuitable for them by virtue of their indebtedness, poor credit history, age, health, disability or any other reason.'

With this in mind, my main considerations are did L2G complete reasonable and proportionate checks when assessing Mr B's application to satisfy itself that he would be able to make his repayments without experiencing adverse consequences? If not, what would reasonable and proportionate checks have shown and, ultimately, did L2G make a fair lending decision?

Having considered everything carefully, I am upholding Mr B's complaint. I appreciate that this will be very disappointing for L2G and I've explained below how I've reached this conclusion.

L2G carried out an income and expenditure assessment when Mr B applied for his loan - it recorded his monthly income as £2,200. L2G said that it used a credit reference agency to verify Mr B's bank account and check that the income he declared matched what was on his bank statements, on average. L2G said that it seemed Mr B received a minimum of about £2,195 a month so it relied on this figure in its assessment. L2G says it used information from the Office of National Statistics to estimate Mr B's expenses and checked his credit file. It estimated Mr B's total monthly expenses to be about £1,889 which, it said, left him enough disposable income to afford the loan repayments of £86.

L2G provided the credit file information it relied on and I've reviewed this. It shows that Mr B had the following unsecured debts: five credit or store cards with a combined balance of £3,752 out of a total £3,900 limit; a loan balance of £343 with monthly payments of £49 and a current account utilising £3,631 out of a £5,000 overdraft. Mr B also had a mortgage with payments of £182 a month and a flexible mortgage account utilising £4,147 out of a £4,150 limit. Mr B's file showed some defaults from 2019 and 2020 – two short terms loans which were settled and one credit card debt of £5,761, which hadn't been.

As mentioned, L2G has now seen Mr B's bank statements (covering the 11 December 2021 to 10 March 2022) and remained of the view that the loan was affordable and the payments sustainable for the loan term. It said in response to our investigator's view that the defaults seen on Mr B's credit file were historic and not relevant to this lending decision. It also said that, while there may have been a significant amount of existing credit, it was within limits and there wasn't any adverse information reported about these accounts.

I haven't seen a breakdown of the expenses figure of £1,889 and so I don't know what L2G estimated as Mr B's living costs or his debt repayments. It would seem from Mr B's credit file that he had over £13,000 of revolving credit debt, at least, alongside his loan and might need to pay a significant amount of his income in order to repay this within a reasonable period of time. In addition, I've noted that Mr B was almost up to his limits on his credit (or store) cards and that his (declared) income didn't clear his current account overdraft.

As L2G will know, it needed to have regard to information of which it is aware at the time which may indicate that a customer is in, has recently experienced, or is likely to experience, financial difficulty. I think there were indications in the information L2G had that Mr B was reliant on credit, and so might not be able to meet his repayments for this loan without borrowing further or experiencing adverse impacts on his finance.

Furthermore, I don't think a more in depth check of Mr B's circumstances at the time would have provided any reassurance to L2G. I've also reviewed Mr B's bank statements and don't agree with L2G's positive view of this information. I've noted that Mr B's wages were lower than L2G's sense-check suggested and were variable, ranging from £1,300 in December to £1,900 in January 2021. There were other deposits and transfers in from individuals but these were repaid or spent immediately on one-off purchases. That aside, the statements show that Mr B was borrowing from short-term lenders and had at least three loans outstanding when L2G agreed this loan for him. They also show returned direct debits, for example for several debt repayments in January 2021. Mr B had almost reached his overdraft limit of £5,000 in February and, it seems, would have exceeded it had he not taken out this loan. He went on to take out two more short term loans (for £800) in the weeks after.

In summary, I don't think L2G treated Mr B fairly or with due regard to his interests when it agreed to lend to him on the basis of the information it had. I think further information, by way of bank statements, for example, would have confirmed that Mr B was having difficulty with his finances at the time and wasn't likely to be able to meet his repayments for this loan without borrowing further. I've concluded that L2G was irresponsible to have agreed to lend to him on this occasion and it needs to put things right for him as I've set out below.

**Putting things right**

I understand that Mr B has now repaid more than the capital he borrowed. In this case, I think it's fair that the capital repaid (£420) should remain with L2G, but I don't think Mr B should pay any interest, fees or charges on this loan, which I've found to have been irresponsible given.

In summary L2G should:

- Cap the amount Mr B needs to repay at £420; and
- Consider all payments, including any fees, Mr B made as payments towards this capital amount; and
    - If Mr B has paid more than this (which I think is the case here) then L2G needs to refund these overpayments to him along with 8% simple interest per annum* from the date of payment to the date of settlement of this complaint. In this case L2G needs to remove any negative information about this loan from Mr B's credit file; or
    - For completeness, if it transpires that after the above calculations Mr B has not yet repaid the capital, then L2G needs to treat Mr B fairly and with forbearance and due consideration regarding his outstanding capital balance. This may mean coming to an affordable repayment plan with him. Once the loan capital has been repaid, then L2G should remove any negative information about this loan from Mr B's credit file.

*HMRC requires L2G to take off tax from this interest. L2G must give Mr B a certificate showing how much tax it's taken off if he asks for one.

**My final decision**

For the reasons I've explained above I'm upholding Mr B's complaint about Loans 2 Go Limited and it needs to take the steps outlined to put things right for him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 7 December 2022.

Michelle Boundy
**Ombudsman**