

## **The complaint**

Mr T complains about the way Loans 2 Go Limited ('L2G') administered his account with it.

## **What happened**

L2G approved Mr T for a £250 loan in April 2021. The term of the loan was 18 months and the repayments were approximately £57 per month. Mr T complained that he believed the term of the loan was three months not 18 months. He also complains that L2G did not offer sufficient forbearance when he began to experience financial difficulties repaying the loan. In connection to this, Mr T says that L2G continued to take money via a continuous payment authority (CPA), even when he was in a debt management plan.

Our investigator upheld the complaint. She argued that whilst she was satisfied the loan term was clearly explained to Mr T, that L2G had not offered sufficient forbearance when he began to encounter financial difficulties. She recommended that L2G refund interest and charges paid by Mr T.

L2G disagreed with the opinion of our investigator. It also further argued that it could not refund any interest and charges to Mr T, as it had structured his loan agreement in such a way that all interest and charges had already been applied to the loan. It therefore maintained that Mr T was not due any further redress.

Mr T responded accepting the findings of our investigator.

Before going on to consider my findings in this case; I think it is important to highlight the key timeline of events in this case. This is a summary of the events so some details are omitted for the sake of conciseness:

- April 2021 – Loan taken out.
- July 2021 – Mr T asks for a change in his payment date. L2G does not receive a payment on time. Mr T says he is struggling and wants to set up a CPA.
- August 2021 – Mr T makes a double payment to cover missed July 2021 payment. Mr T makes this manually and there is a discussion over the CPA.
- September 2021 – Mr T calls in to ask for a two-month payment holiday. L2G ask Mr T to complete an income and expenditure assessment. Mr T raises his complaint.
- October 2021 - L2G issues its final response letter not upholding Mr T's complaint.
- November 2021 – Mr T does not make his payment. He says he has a new job and will make the payment in December 2021.
- December 2021 – Mr T says he is going to go to a debt advice charity as he is experiencing financial hardship. The third-party debt charity sends L2G a 60 day breathing space letter. After this letter is sent L2G takes a payment via the CPA

- January 2022 - a further payment is taken via the CPA.
- February 2022 - L2G contacts Mr T to ask him to make a further payment as there are still arrears on his account. Mr T confirms he is in a debt management plan. L2G places the account on hold.
- In April and May 2022 L2G takes further payments via the CPA.

### **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.

Having done so I'm satisfied this complaint should be upheld. All parties agree that there is no further action required in regards to Mr T's complaint regarding the term of the loan. I'm also satisfied that the term of the loan was sufficiently clear to Mr T prior to him entering into the contract; and as such I'm satisfied that L2G did not act unreasonably in that regard. The rest of this decision will instead focus on how L2G responded when it was told Mr T couldn't make his payments and any potential redress due to Mr T as a result.

L2G says that it has acted reasonably in handling Mr T's complaint. In relation to the CPA it says that it received no instructions from either Mr T nor the debt management company to cancel it. As such it acted fairly in continuing to take payments under it. In relation to the actions of forbearance, whilst L2G did not expressly say it disagreed with the findings of our investigator, it did say that it could not offer any interest relief to Mr T. This is because L2G says that all interest and charges were 'front loaded' to Mr T's account. This meant that it could not freeze any interest or charges on the account, when it became aware of Mr T's difficulty making payment, as these were already applied when the loan was inceptioned.

I'll start by setting out that I'm satisfied L2G should've done more to help Mr T in this case. As can be demonstrated by the timeline of events, L2G was aware Mr T was encountering issues with his repayments from an early point in its relationship with him. The contact notes demonstrate that Mr T first missed a payment in July 2021, and that he was struggling to arrange his finances, leading to a request for the CPA. Following this, it is clear that Mr T's payments toward the loan were sporadic at best, and on balance demonstrated that he was struggling to manage his finances sustainably. Whilst I note that acted L2G in line with what I would expect when Mr T raised his concerns in September 2021, I'm not satisfied it did so when he informed them of his plan to go to debt charity in December 2021.

By this point Mr T's account was in arrears. He had already asked for a payment holiday, and had told L2G that he was experiencing a change in his employment status. Mr T had also raised a formal complaint. L2G also later in the same month received a breathing space letter from the debt management charity on behalf of Mr T. So I'm satisfied at that point in December 2021 L2G should have acted with more forbearance towards Mr T. I note that L2G did not place Mr T's account on hold until a further two months later in February 2022. I'm satisfied that L2G, should've reasonably taken this action as soon as it became aware of Mr T's difficulty making his payments, in December 2021. I say this because I'm satisfied by that point L2G should've reasonably realised the arrears and the management of the account was such that forbearance was required.

It follows that as I'm satisfied L2G should've taken further steps to help Mr T in December 2021, that it therefore needs to put things right for any financial and non-financial loss Mr T suffered as a result after this point.

In relation to the payments taken by the CPA; L2G says that it did not act unfairly by

continuing to take these payments. I disagree with this. Ultimately L2G was aware that Mr T was struggling. It had received a 60 day breathing space letter from the debt charity on behalf of Mr T; and as such ought to have acted to place the account on hold at that point. Whilst it may be that Mr T did not contact L2G to cancel the CPA; I'm satisfied that it is sufficiently clear that at that point he was not in a position to make further payments towards the loan. And he was also reasonably entitled to believe that the letter from the debt charity was sufficient for this to be done.

This is exacerbated further by the fact that when Mr T began to make payments through his debt management plan, L2G was still taking payments via the CPA. This resulted in Mr T in effect making more than his contractual payments at a time when he was in financial difficulty. That seems self-evidently unfair. As such I'm satisfied that L2G needs to take action to put things right in relation to this aspect of Mr T's complaint too. I'll set this out further in the below section.

Turning to L2G's arguments in relation to the structure of interest on Mr T's loan account. L2G says that all interest and charges are added at the start of the loan; and therefore there are no interest and charges which can be refunded to Mr T.

I've considered this argument, but again I disagree with it. When coming to this conclusion I've considered the relevant rules and regulations at the time the loan was taken out. This includes CONC 7 and the FCA Principle 6 obligations.

I accept that how a lender chooses to structure a loan and whether it adds all of the interest at the start or on a daily basis, is a matter for the lender itself to decide. However, just because a lender adds all of the interest at the start of the loan it doesn't automatically follow that all of this interest is due and payable.

I say this because there is a difference between what a consumer owes or may owe should a loan run to its full term and any interest that actually accrues. So just because L2G decided to add all of the interest due on this loan at the outset this doesn't mean that all of this interest had already accrued at this time. This is because the interest added was calculated on the basis that L2G would be owed at least a portion of the amount advanced (depending on the amortisation schedule) for the 18-month term of the loan.

Indeed, if I take L2G's argument that there was no interest to consider suspending, reducing, waiving or cancelling because it had already been added to the balance to its logical conclusion, this would effectively mean that, on a loan where all of the interest was added at the outset, a customer would have to pay 18 months' worth of interest even if they decided to repay the loan after a few months. And it would be plainly absurd to suggest that a customer in this position would have to pay all of the interest due over the full term in these circumstances.

If I were to accept L2G's argument here, it would also in essence mean that all consumers who had their loans structured in such a way would never be entitled to forbearance measures. And considering that consumers have no say in how their loans are structured, this again would seemingly be plainly unfair and not in accordance with L2G's overarching obligation to treat its customers fairly.

In this instance, as I've set out above, I'm satisfied that there are a number of reasons why L2G's failure to consider a reduction in interest (or in this case a refund of the unpaid interest), given what it knew about Mr T's circumstances by the time it started accepting reduced payments through the debt management plan, wasn't in accordance with the rules and guidance set out at the time. And whilst I'm satisfied that L2G was entitled to charge interest on the loan during the period leading up to December 2021, I'm not satisfied that it

can take the approach of not applying any reduction in what Mr T owes simply because the interest and charges had been applied at the start of the loan.

I'm satisfied L2G's failure to consider a reduction or removal of interest at this point wasn't fair and reasonable. And as such I'm satisfied that it did not act fairly and reasonably towards Mr T; and as such it needs to put things right.

### **Putting things right**

As L2G's actions have caused Mr T a loss, I'm satisfied it needs to put things right.

In relation to the CPA payments taken after L2G received the 60 day breathing space letter from the debt management company, I accept that these payments being returned may not be in the best interest of Mr T. This is because they have gone on to reduce the balance he owed to L2G. And asking L2G to return these funds at this stage would be akin to lending him further funds.

However, I'm satisfied that L2G continuing to take these payments in the way that it did caused Mr T to suffer non-financial loss in the form of distress and inconvenience. This is because I'm satisfied that L2G ought to have realised that by continuing to take these payments even though it was aware Mr T was experiencing financial difficulties meant that it was likely making a difficult situation worse. I can also see that from the contact notes this error continued on repeated times, including after a debt management plan was agreed. Therefore I'm satisfied that L2G needs to make a compensation award of £250 to reflect the impact on Mr T.

In relation to the interest on the account, as I've explained earlier in this decision, there isn't an automatic requirement for a lender to waive all unpaid interest as part of any forbearance measure it puts in place. Nonetheless, I think that it was unfair for L2G not to reduce the balance at all in December 2021. I'm also satisfied that Mr T's original payment schedule would have structured on the basis where a portion of the payment went towards paying the interest accrued that month and the remainder went towards reducing the capital owed.

I'm satisfied that it was fair and reasonable for L2G to retain the amount of the payments that would have gone towards interest had Mr T made his payments from inception to December 2021. After this point I'm satisfied that L2G ought to have frozen Mr T's interest as it was clear he was experiencing financial hardship and was entering into a debt management plan. I appreciate what L2G has said about the interest having already been added. However, that doesn't mean it couldn't reduce Mr T's outstanding balance by the amount of any added but as yet unpaid interest.

Having thought about everything, I think that it would be fair and reasonable in all the circumstances of this complaint for L2G to put things right by:

- Reworking Mr T's balance so that the total amount of the monthly payments that would have gone towards interest from December 2021 onwards, according to amortisation schedule based on daily interest, if these payments had been made, are removed.

AND

- pay Mr T £250 for the distress and inconvenience caused by L2G continuing to take payments via the CPA after it was notified by a debt management company of Mr T's financial difficulties.

- If this results in Mr T having paid more than he owes then L2G needs to refund any overpayments with 8% interest simple a year\*
- If after these calculations Mr T still owes a balance, then it needs to work with Mr T (and any debt management plan) to come to a suitable repayment plan.

\* HM Revenue & Customs requires Loans 2 Go to take off tax from this interest. Loans 2 Go must give Mr Y a certificate showing how much tax it's taken off if he asks for one.

### **My final decision**

My final decision is that I uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 7 March 2023.

Tom Whittington  
**Ombudsman**