

Complaint

Mr C has complained about a loan Loans 2 Go Limited (“L2G”) provided to him. He says the loan was unaffordable.

Background

L2G provided Mr C with a loan for £1,500.00 in May 2021. The loan had an APR of 253.7% and a 24-month term. This meant that the total amount to be repaid of £4,344.00, which included interest, fees and charges of £2,844.00, was due to be repaid in 24 monthly instalments of £181.

One of our adjudicators looked at this complaint and thought that L2G didn’t act unfairly when providing this loan. Mr C disagreed with our adjudicator and so the case was passed forward for an ombudsman to review the complaint.

My provisional decision of 17 April 2023

I issued a provisional decision – on 17 April 2023 - setting out why I intended to uphold Mr C’s complaint. I won’t copy that decision in full, but I will instead provide a summary of my findings.

I started out by saying that we’ve set out our general approach to complaints about unaffordable/irresponsible lending - including the key rules, guidance and good industry practice - on our website. And that I had used this approach to help me decide Mr C’s complaint.

I explained that L2G needed to make sure it didn’t lend irresponsibly. In practice, what this means is L2G needed to carry out proportionate checks to be able to understand whether Mr C could afford to repay any credit it provided.

Our website sets out what we typically think about when deciding whether a lender’s checks were proportionate. Generally, we think it’s reasonable for a lender’s checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower’s income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we’d expect a lender to be able to show that it didn’t continue to lend to a customer irresponsibly.

L2G said that it carried out an income and expenditure assessment with Mr C prior to providing him his loan. It also carried out credit checks. L2G’s said its checks suggested Mr C had more than enough to cover the payments to these loans and so it was reasonably entitled to lend.

I carefully considered what L2G said. But it was clear to me that L2G wasn’t persuaded by the income and expenditure information it received from Mr C. In particular, I was mindful

that Mr C's income was determined to be less than the amount he declared. Even then the information relied upon suggested that the payments this loan would take Mr C right to the margin of his calculated disposable income.

Furthermore, the credit checks L2G carried out showed Mr C had a history of difficulties with credit. He had a number of defaults and an active county court judgement.

So I was persuaded by what Mr C had said about already being in a difficult financial position at the time. And while it was possible his credit file reflected his choices rather than because he was struggling, I added that my experience of these types of cases suggest this was unlikely, I was satisfied that further checks would have been proportionate here.

And I thought that if L2G had carried out further checks before providing this loan, it would have seen that Mr C was struggling to manage his finances. Indeed, most of his income was being taken up by his existing living costs and repayments to his existing commitments. Mr C's bank statements also showed the real reason for his difficulties too.

Bearing all of this in mind, I was satisfied that reasonable and proportionate checks would more likely than not have demonstrated that Mr C would not have been able to make the repayments to this loan without borrowing further and/or suffering undue difficulty. And, in these circumstances, I found that reasonable and proportionate checks would more likely than not have alerted L2G to the fact that Mr C was in no sort of position to make the payments to this loan without suffering significant adverse consequences.

As L2G provided Mr C with this loan, notwithstanding this, I was minded to conclude that it failed to act fairly and reasonably towards him. As Mr C ended up paying and was being expected to pay interest, fees and charges on a loan he shouldn't have been provided with, I concluded by saying that it was my intention to find that Mr C lost out because of what L2G did wrong and that it needed to put things right.

Responses to my provisional decision

Mr C confirmed that he agreed with my provisional decision and that he had nothing further to add.

L2G confirmed receipt of my provisional decision and that it didn't have anything further for me to consider.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I set out in some detail why I intended to uphold Mr C's complaint in my provisional decision of 17 April 2023. As I've not been provided with anything further by the parties, I've not been persuaded to alter my conclusions. So I'm still upholding Mr C's complaint. And I remain satisfied that L2G needs to put things right.

Fair compensation – what L2G needs to do to put things right for Mr C

Having thought about everything, I think that L2G should put things right for Mr C by:

- removing all interest, fees and charges applied to the loan from the outset. The payments Mr C made, whether to L2G or any third-party debt purchaser, should be deducted from the new starting balance – the £1,500.00 originally lent. If Mr C has

already repaid more than £1,500.00 then L2G should treat any extra as overpayments. And any overpayments should be refunded to Mr C;

- adding interest at 8% per year simple on any overpayments, if any, from the date they were made by Mr C to the date of settlement†
- if no outstanding balance remains after all adjustments have been made, all adverse information L2G recorded about this loan should be removed from Mr C's credit file.

† HM Revenue & Customs requires L2G to take off tax from this interest. L2G must give Mr C a certificate showing how much tax it has taken off if he asks for one.

My final decision

For the reasons I've explained above and in my provisional decision of 17 April 2023, I'm upholding Mr C's complaint. Loans 2 Go Limited should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 2 June 2023.

Jeshen Narayanan
Ombudsman