

Complaint

Mr M has complained about personal loans Loans 2 Go Limited (“L2G”) provided to him.

He says the loans were unaffordable and were therefore irresponsibly lent to him.

Background

L2G provided Mr M with a loan for £500 in December 2021. This loan had an APR of 770% and a term of 18 months. This meant that the total amount to be repaid of £1,850.04, including interest, fees and charges of £1,350.04, was due to be repaid in 18 monthly instalments of £102.78. This loan was settled early in June 2022.

L2G then provided Mr M with a second loan for £1,000.00 in September 2022. This loan had an APR of 937.8% and a term of 78 weeks. This meant that the total amount to be repaid of £3,700.32, including interest, fees and charges of £2,700.32, was due to be repaid in 78 weekly instalments of £47.44.

One of our adjudicators reviewed Mr M's complaint and eventually reached the conclusion that L2G ought to have realised that it shouldn't have provided Mr M with loan 1 but that it didn't do anything wrong when providing loan 2. So he thought that Mr M's complaint should be partially upheld.

Neither party agreed with our adjudicator's assessment. So the case was passed to an ombudsman as per the next step of our dispute resolution process.

My provisional decision of 18 July 2023

I issued a provisional decision – on 18 July 2023 - setting out why I intended to uphold Mr M's complaint. I won't copy that decision in full, but I will instead provide a summary of my findings.

I started by explaining that we've explained how we handle complaints about unaffordable and irresponsible lending on our website. And that I had used this approach to help me provisionally decide Mr M's complaint.

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 M 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 B prior to providing him with both of his loans. It said that it also carried out credit checks. And, in its view, once Mr M's committed expenditure was deducted from his income he was left with enough to be able to make the payments to these loans.

I thought about what L2G said. But I was concerned that L2G's own checks in the lead up to loan 1 showed that he had recent payment difficulties in the form of some missed payments and one account that had recently been in an arrangement to repay arrears.

I did appreciate that Mr M repaid loan 1 well ahead of schedule and the credit search carried out appeared to show that he didn't miss any payments to other credit in the period between loans 1 and 2. But the credit search also showed that Mr M took out loans elsewhere.

And not only was loan 2 for a larger amount than loan 1, it was also taken not too long after loan 1 had been repaid. Furthermore, L2G's checks appeared to indicate that it wasn't confident in the amount Mr M declared for his income either.

All of this led me to think that L2G needed to take steps to verify Mr M's actual monthly expenditure. As I couldn't see that this L2G did take further steps to verify Mr M's expenditure, I didn't think that the checks it carried out before providing Mr M with loan 2 were reasonable and proportionate.

Mr M provided us with evidence of his financial circumstances at the time he applied for both of his loans. I accepted that different checks might show different things. And just because something showed up in the information Mr M provided, it didn't mean it would have shown up in any checks L2G might have carried out.

But in the absence of anything else from L2G showing what this information would have shown, I thought that it was perfectly fair, reasonable and proportionate to place considerable weight on what this information said as an indication of what Mr M's financial circumstances were more likely than not to have been at the time.

I also thought it important to note that L2G was required to establish whether Mr M could sustainably make his loan repayments – not just whether the loan payments were technically affordable on a strict pounds and pence calculation. The loan payments being affordable on a strict pounds and pence basis might have been an indication that a consumer could sustainably make the repayments.

But it didn't automatically follow that this is the case. And as a borrower shouldn't have to borrow further in order to make their payments, it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to sustainably make their repayments if it is on notice that they are unlikely to be able to make their repayments without borrowing further.

I carefully considered the information available in light of all of this.

The information provided showed that the reason for Mr M's indebtedness and apparent inability to manage his money was because he was spending significant amounts of money gambling. And Mr M's ability to make the repayments to his loans would in large part be dependent on his success as a gambler. Given this, it was apparent to me that Mr M was unlikely to have been able to repay these loans without borrowing further or experiencing financial difficulty.

As this was the case, I thought that Mr M's existing financial position meant that he was unlikely to be able to afford the repayments to these loans, without undue difficulty or borrowing further. And I was satisfied that reasonable and proportionate checks would more likely than not have shown L2G that it shouldn't have provided these loans to Mr M.

As L2G provided Mr M with these loans, notwithstanding this, I was minded to conclude that it failed to act fairly and reasonably towards him. And this left me intending to uphold the complaint.

I then set out a method of putting things right which I thought addressed L2G's failings and Mr M's resulting loss.

Responses to my provisional decision

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

L2G confirmed receiving my provisional decision. It said that it had nothing further to add and that it would await my final decision.

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 M's complaint about loan 2 in my provisional decision of 18 July 2023. As I've not been provided with anything further by the parties to consider, I've not been persuaded to alter my conclusions.

So I'm still upholding Mr M's complaint about loan 2. And I remain satisfied that L2G needs to put things right for loan 2 in the same way that it has already agreed to do so for loan 1.

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

Having thought about everything, I think that it would be fair and reasonable for L2G to put things right for Mr M by:

- refunding all interest, fees and charges Mr M paid on his loans;
- adding interest at 8% per year simple on any refunded payments from the date they were made by Mr M to the date of settlement†
- removing any and all adverse information it recorded about these loans from Mr M's credit file.

† HM Revenue & Customs requires L2G to take off tax from this interest. L2G must give Mr M 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 18 July 2023, I'm upholding Mr M'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 M to accept or

reject my decision before 29 August 2023.

Jeshen Narayanan
Ombudsman