DRN-4984289

Complaint

Mr S has complained that Loans 2 Go Limited ("L2G") unfairly provided him with unaffordable loans.

Background

L2G provided Mr S with a total of five loans. As far as I can see is Mr S' loan history was as follows:

Loan	Taken	Amount	Term	APR	Payment	Settled
1	November 2018	£300	78 weeks	1,241.9%	£15.68	March 2019
2	May 2019	£300	18 months	1,013.3%	£68.57	April 2020
3	June 2020	£300	18 months	1,013.3%	£68.57	December 2020
4	February 2023	£500	18 months	770%	£102.78	March 2023
5	March 2023	£2,000.00	24 months	320%	£269.33	Defaulted

Mr S' complaint was initially reviewed by one of our investigators. He thought that L2G hadn't done anything wrong or treated Mr S unfairly when providing loan 1 to him. However he thought that L2G ought reasonably to have realised that it shouldn't have provided loans 2 to 5 to Mr S. So he partially upheld the complaint.

Mr S didn't disagree with our investigator's assessment. L2G agreed with the findings the investigator reached on loans 1 and 2. However, L2G disagreed with our investigator's conclusions on loans 3 to 5 as it didn't think that it had done anything wrong when providing these loans. So the complaint was passed to an ombudsman for review.

As the parties are in agreement on loans 1 and 2, this decision is only looking at whether L2G treated Mr S fairly and reasonably in relation to loans 3 to 5.

My findings

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

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 I've referred to this when deciding Mr S' complaint.

Having carefully thought about everything, I think that there are three overarching questions that I need to answer in order to fairly and reasonably decide Mr S' complaint.

These three overarching questions are:

- Did L2G complete reasonable and proportionate checks to satisfy itself that Mr S would be able to repay loans 3 to 5 in a sustainable way?

- Bearing in mind the circumstances, at the time of each application, was there a point where L2G ought reasonably to have realised Mr S' indebtedness was being increased in a way that was unsustainable or otherwise harmful and so it shouldn't have provided further loans?

- Did L2G act unfairly or unreasonably in some other way?

If I determine that L2G didn't act fairly and reasonably in its dealings with Mr S and that he has lost out as a result, I will go on to consider what is fair compensation.

Did L2G complete reasonable and proportionate checks to satisfy itself that Mr S would be able to meet repay his loans in a sustainable way?

The rules, regulations and good industry practice in place when L2G lent to Mr S required it to carry out a reasonable and proportionate assessment of whether he could afford to repay his loans in a sustainable manner. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower" focused – so L2G had to think about whether repaying the loans sustainably would cause difficulties or adverse consequences for Mr S. In practice this meant that L2G had to ensure that making the payments to the loan wouldn't cause Mr S undue difficulty or adverse consequences. In other words, it wasn't enough for L2G to simply think about the likelihood of Mr S making payments, it had to consider the impact of loan repayments on Mr S.

Checks also had to be "proportionate" to the specific circumstances of the application. In general, what constitutes a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the particular circumstances of the consumer (e.g. their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount / type / cost of credit they are seeking. Even for the same customer, a proportionate check could look different for different applications.

In light of this, I think that a reasonable and proportionate check ought generally to have been *more* thorough:

- the *lower* a customer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);

- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);

- the *longer* the term of the loan (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make payments for an extended period); and

- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may also be other factors which could influence how detailed a proportionate check should've been for a given application – including (but not limited to) any indications of borrower vulnerability and any foreseeable changes in future circumstances.

I've carefully thought about all of the relevant factors in this case.

Were L2G's checks reasonable and proportionate?

L2G has said that it completed an income and expenditure assessment with Mr S before providing all of these loans. It said that it considers it did enough to establish that all of these loans were affordable. I've considered what it did for each of loans I'm considering and the position at the respective times, individually.

- Loan 3

Loan 3 was for £300, had an APR of 1,013.3% and was due to be repaid in 18 monthly repayments of £68.57. This was the third such loan Mr S had taken with L2G in just over 18 months and this was taken two months after loan 2 had been repaid.

L2G says that loan 2 was repaid early. This is true, but it is also clear that Mr S was late with at least one payment. And this was prior to the onset of the pandemic. Furthermore, Mr S returning so soon after loan 2 was 'repaid' ought to have led to some concern that Mr S was taking loan 3 to cover the hole that repaying loan 2 had left in his finances. The credit check provided also shows that there were a number of late payments on other accounts in the period between the application for loan 2 and the application for loan 3.

I also think that L2G needed to be concerned by this information as its records appear to show that Mr S had a considerably lower monthly income at the time of this loan than he did for loans 1 and 2. Indeed, Mr S appears to have had a reduced income each time he applied for a loan. Although I accept that the reduction between loan 1 and 2 wasn't that large.

Finally, I think the fact that this was Mr S' third loan and that he was now a repeat borrower was a matter that L2G needed to incorporate into any analysis of whether he could afford to repay this loan. But I can't see that it did anything differently to what it did for the earlier applications.

In my view, all of this means that for loan 3, L2G should not only have asked Mr S further questions about his living costs and regular non-credit related expenditure (rather than relying on statistical data), I think that L2G needed to take further steps to at the very least cross-check whatever Mr S said about his expenditure.

L2G could have done this by asking for information such as bank statements or copies of bills. And when it obtained this information it needed to properly scrutinise it and ensure that Mr S did have enough funds to be able to make the payments before it provided loan 3.

As L2G has not provided me with evidence of it finding out more about Mr S' circumstances, or that it asked Mr S to provide much more than he had done for loans 1 and 2, despite his previous loans and what on the face of things appeared to be, reducing income, I'm satisfied that it didn't complete fair, reasonable and proportionate affordability checks before providing loan 3 to Mr S.

- Loan 4

Loan 4 was for £500, had an APR of 770% and was due to be repaid in 18 monthly repayments of £102.78.

From what I can see the monthly income L2G had recorded for Mr S was significantly higher than what was recorded for loan 3 and it was the same that was declared for loan 2. I'm a little concerned that the expenditure information for loan 4 recorded that Mr S had no credit commitment. This is despite the fact that the credit check shows an outstanding balance on at least one account.

Furthermore, this was Mr S' fourth loan with L2G. I've given thought to the fact that even though Mr S was a repeat borrower with L2G there was a gap of over two years between loan 3 being repaid and the application for loan 4. I accept that it could be argued that this meant that loans 1 to 3 could be less relevant to this application as Mr S wasn't repeat borrowing in a way where he was taking this loan immediately after his previous ones.

However, while I can understand why such an argument might be made on some cases, I'm mindful about the particular circumstances here. As I've explained, Mr S already had late payments on some of his previous L2G loans. While Mr S hadn't borrowed from L2G for two years, the credit check it carried out showed that Mr S had had multiple missed payments with a number of providers in the period between repaying loan 3 and applying for loan 4.

It is possible that Mr S might have had difficulties because he had a lower income around the time of loan 3 – although that wouldn't explain the issues on the earlier L2G loans – and now he had a higher income he was able to bring everything up to date. But bearing in mind that L2G was providing a loan for a higher amount at this stage and what had happened on previous L2G loans, I think that it was important for L2G to check this. This is especially as it was lending a higher amount than it had done on the previous occasions.

As L2G has not provided me with any evidence of it finding out more about Mr S' circumstances, or that it asked Mr S to provide much more than he had done for the earlier loans, despite what I've pointed out, I'm satisfied that it didn't complete fair, reasonable and proportionate affordability checks before providing loan 4 to Mr S.

- Loan 5

Loan 5 was for £2,000.00 and was taken a mere matter of days after loan 4 had been repaid. Given the short break between loan 4 being repaid and loan 5 being taken, I think that L2G needed to consider that Mr S might have been looking to borrow loan 5 because of the hole the repayment of loan 4 left in his finances. I also think that L2G also ought to have been particularly concerned that this was happening despite the fact that it had recorded Mr S' highest monthly income amount in the period that he'd been borrowing from it.

Furthermore, L2G's expenditure assessment appears to have included nothing at all for payments towards existing credit. This is despite the fact that its credit check showed that Mr S was close to his credit limit on two revolving credit accounts. It's unclear to me how L2G could reasonably have concluded that Mr S didn't have to pay anything at all towards credit repayments in these circumstances.

Considering all of this and the fact that this was now Mr S' fifth application for a high-cost loan from L2G, I think that L2G needed to verify the information that was being provided. L2G has not provided me with evidence of it verifying the information Mr S provided, or it asking Mr S to provide much more than he had done for loans 1 to 4. This is despite Mr S' previous loans, his previous missed payments and what on the face of things appeared to be, increasing indebtedness as he was now towards the limit on the revolving credit accounts he had.

In these circumstances, I'm satisfied that L2G didn't complete fair, reasonable and proportionate affordability checks before providing loan 5 to Mr S either.

Bearing in mind the circumstances, at the time of each application, was there a point where L2G ought reasonably to have realised Mr S' indebtedness was being increased in a way that was unsustainable or otherwise harmful and so shouldn't have provided further loans?

Ordinarily, where a firm failed to carry out reasonable and proportionate checks before providing credit, I'd usually go on to recreate reasonable and proportionate checks in order to get an indication of what such checks would more likely than not have shown.

However, I haven't gone on to recreate individual, proportionate checks for loans 3 to 5 because I don't think that it is necessary to do so here. I think this is the case because in addition to assessing the circumstances behind each *individual* loan arranged for Mr S by L2G, I also think it is fair and reasonable to look at the *overall pattern* of lending and what unfolded during the course of Mr S' history with L2G.

I'm mindful here that the relevant rules and guidance make it clear that a firm shouldn't continue arranging further loans where the loans are unsustainable or otherwise harmful and/or it is apparent that the customer may be experiencing financial difficulties.

And I think that by loan 3, L2G ought fairly and reasonably to have realised that Mr S' financial position was such that further loans were simply unsustainable for him. I've already set out most of the reasons for this in the section on why I don't think that L2G's checks were reasonable and proportionate.

However, the factors which lead me to conclude that L2G ought fairly and reasonably to have realised loans 3 to 5 were unsustainable or otherwise harmful are:

- Mr S was being provided with high-cost loans which were not designed to be taken over the longer term. Yet the way L2G was allowing Mr S to borrow – taking out a loan and then repaying and then taking out another loan again – had the effect of Mr S borrowing at very high rates of interest over a medium to longer term.

- Mr S was taking loan 3 in circumstances where L2G's records show that he had had missed payments on earlier loans and this was in circumstances where it the missed payments happened at a time it considered that Mr S had a much higher income that he did before applying for loan 3.

- Even though there was a much longer period between the repayment of loan 3 and the application for loan 4 and this could in certain circumstances reasonably lead a lender to place less weight on earlier loans, Mr S had significant missed payments on his other commitments during this period. Given the high-cost nature of these loans and Mr S having a far from pristine repayment record despite purportedly earning more, L2G ought to have recognised the number of missed payments were a sign of unsustainable indebtedness.

- Mr S took out loan 5, which was for five times the amount of loan 4, a mere matter of days after loan 4 was repaid. L2G ought to have been concerned that Mr S was returning for a further high-cost loan in this circumstance despite supposedly having a higher income.

- it is clear that there was also a problem with L2G's expenditure calculations for loans 4 and 5. The screenshots provided suggests that L2G didn't think that Mr S had any credit commitments despite the credit search results showing otherwise.

- As I've explained, high-cost loans are designed are not designed for borrowing over an extended term and the idea is the customer moves back to more sustainable forms of borrowing over the longer term. However, by the time of the application for loan 5, Mr S had already paid L2G over £3,000.00 and had been an L2G customer since November 2018, never having had the use of more than £500 at any one time.

- For loan 5 Mr S was now going to have to pay close to another £6,500.00 until around March 2025. In my view, L2G granting Mr S this loan moved Mr S even further away from being able to return to mainstream credit. And he would have been borrowing from L2G for over four years (when allowing for the fact he didn't owe L2G in the period between loan 3 being repaid and loan 4 was provided). I can't see how this could fairly and reasonably be seen as sustainable. Indeed, in my view, it is no surprise that Mr S went on to have difficulty making the much larger monthly payments, when he'd already demonstrated missed payments for much lower amounts on earlier loans.

Overall and having considered everything, for the reasons I've set out, I'm satisfied that L2G ought fairly and reasonably to have realised that loans 3, 4 and 5 were unsustainable or otherwise harmful for Mr S and unfairly and excessively increased his overall indebtedness. As this is the case, I'm satisfied that L2G failed to act fairly and reasonably towards Mr S when providing loans 3, 4 and 5 to him.

Did L2G act unfairly or unreasonably towards Mr S in some other way?

Having carefully thought about everything provided, I've not seen anything here that leads me to conclude L2G acted unfairly or unreasonably towards Mr S in some other way.

Conclusions

Overall and having carefully thought about the three overarching questions, set out on pages one and two of this decision, I'm satisfied that L2G:

- *didn't* complete reasonable and proportionate checks on Mr S to satisfy itself that he was able to repay loans 3, 4 and 5;

- ought fairly and reasonably to have realised that loans 3, 4 and 5 were unsustainable or otherwise harmful for Mr S and so shouldn't have been provided as they would more likely than not unfairly and excessively increased his overall indebtedness, in circumstances where he was repeat borrowing;

- didn't act unfairly or unreasonably towards Mr S in some other way.

The above findings leave me satisfied that L2G unfairly and unreasonably provided loans 3, 4 and 5 to Mr S and that it should now put things right.

In reaching my conclusions, I've also considered whether the lending relationship between L2G and Mr S might have been unfair to Mr S under section 140A of the Consumer Credit Act 1974.

However, I'm satisfied that the direction, which I set out below, results in fair compensation for Mr S given the overall circumstances of his complaint. I'm also satisfied that, based on what I've seen, no additional award is appropriate in this case.

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

Having considered everything, I'm satisfied that L2G should put things right for Mr S in the following way:

- refund all the interest, fees and charges Mr S paid on loans 3 and 4 (as well as loan 2 as it had already agreed to do);
- removing all interest, fees and charges applied to loan 5 from the outset. The payments Mr S made, whether to L2G or any third-party debt purchaser, should be deducted from the new starting balance – the £2,000.00 originally lent. If Mr S has already repaid more than £2,000.00 then L2G should treat any extra as overpayments. And any overpayments should be refunded to Mr S. If an outstanding balance remains after all adjustments, L2G can deduct this from any compensation due on loans 2 to 4;
- add interest at 8% per year simple on any refunded interest, fees, charges or overpayments from the date they were paid by Mr S to the date of settlement†;
- remove any adverse information it is responsible for recording on Mr S' credit file as a result of loans 3 and 4 (as well as loan 2 as it has already agreed to do). If no outstanding balance remains on loan 5 after all adjustments have been made then L2G also needs to remove any adverse information it may have recorded about this loan. For the sake of completeness, I'd add that I am only able to direct L2G to remove any adverse information that it is responsible for recording. So if the third-party debt purchaser continues to record any information regarding loan 5 against Mr S, even if this final decision is accepted, he will need to take the matter up with it.

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

My final decision

For the reasons I've explained, I'm upholding Mr S' complaint. Loans 2 Go Limited should put things right for Mr S in the way I've directed it to so in the section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 30 September 2024.

Jeshen Narayanan
Ombudsman