DRN-2837726

Financial Ombudsman Service

The complaint

Mr D complains that Loans 2 Go Limited acted irresponsibly when lending to him.

What happened

Loans 2 Go provided Mr D with loans as follows:

Loan	Date taken	Date paid	Number of monthly instalments	Loan amount	Approximate monthly repayment*
1	September 2018	December 2018	18	£400	£90.62
2	December 2018	May 2019	18	£250	£56.64
3	May 2019	Loan status not known	18	£600	£137.13

Mr D mainly said that had Loans 2 Go done sufficient checks, it would have been clear that he couldn't afford the loans from the outset.

Our investigator upheld Mr D's complaint and she set out the steps Loans 2 Go should take to put things right.

Loans 2 Go disagreed. In summary, Loans 2 Go acknowledged that its credit checks showed some adverse information but said this would normally be expected given the type of lending it provided. Loans 2 Go said it hadn't deemed it necessary to do more checks or request Mr D's bank statements before lending and it still believed that its lending was affordable and no issues could be identified with its lending policy.

So the complaint comes to me to decide.

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 have also taken into account the law, any relevant regulatory rules and good industry practice at the time. Having done so, I've come to the same view as our investigator and I'm upholding this complaint. I'll explain why I say this.

There are some general principles I will keep in mind and questions I need to think about when deciding whether to uphold Mr D's complaint.

Before agreeing to lend, lenders must work out if a borrower can afford the loan repayments alongside other reasonable expenses the borrower also has to pay. This should include more than just checking that the loan payments look affordable on a strict pounds and pence calculation. A lender must take reasonable steps to satisfy itself that the borrower can sustainably repay the loan – in other words, without needing to borrow elsewhere.

The rules don't say what a lender should look at before agreeing to lend. But reasonable and proportionate checks should be carried out. For example, when thinking about what a borrower has left to spend on a new loan after paying other expenses, as well as taking into account things like the loan amount, the cost of the repayments and how long the loan is for, a proportionate check might mean a lender should also find out the borrower's credit history and/or take further steps to verify the borrower's overall financial situation.

If reasonable and proportionate checks weren't carried out, I need to consider if a loan would've been approved if the checks had been done. If proportionate checks were done and a loan looked affordable, a lender still needed to think about whether there was any other reason why it would be irresponsible or unfair to lend.

For example, if the lender should've realised that the loan was likely to lead to more money problems for a borrower who is already struggling with debt that can't be repaid in a sustainable way.

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 repayments to credit from a lower level of income)
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet higher repayments from a particular level of income)
- the *longer* the period of time a borrower will be indebted (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make repayments for an extended period).

I've thought carefully about this all means in coming to a decision on Mr D's case.

Loans 2 Go told us about the checks it did before providing loan 1 to Mr D. It asked him to provide details of his income and to tell Loans 2 Go what he normally spent each month. Loans 2 Go did some background checks, including carrying out checks on Mr D's credit file, and adjusted, as necessary, the figures it relied on when assessing affordability.

The figures Loans 2 Go relied on suggested that Mr D had ample disposable income to cover the loan repayments.

But, although the loan *looked* affordable, Loans 2 Go could also see that what Mr D had told it about his financial situation seemed to be significantly at odds with the information shown on its credit checks.

In particular, Loans 2 Go was able to see from its checks that Mr D was making full use of his £400 overdraft limit on a current account and he had credit cards close to or over their credit limit.

There was evidence of recent arrears (within the last two months or so) and it was apparent that not only had Mr D been late with the repayment due on a short term credit account he had also had a problem around the same time paying for an essential service supplied at his home – which I think is a particularly worrying indicator of potentially serious financial difficulty.

Whilst both those accounts had been settled by the time Mr D applied for this loan, I think Loans 2 Go was also able to see that Mr D had an established record over the previous 18 months or so of repeatedly taking out and repaying expensive payday and unsecured loans – and he had at least two loans of this type outstanding when he applied to Loans 2 Go for this loan.

I think what Loans 2 Go saw on its credit checks called seriously into question whether it could rely on its affordability checks that suggested Mr D would be able to make the loan repayments for this loan. I think Loans 2 Go should have been concerned that its search results indicated that it was unlikely that Mr D really had the amount of disposable income it thought he had.

And although the monthly repayments for this loan were relatively modest, Loans 2 Go should have given more careful thought to the likelihood of Mr D being able to maintain these in a way that was sustainable for him over the whole loan term – given the information it had gathered showing his recent money problems and the extent of his existing credit and apparent use of and reliance on expensive short-term loans and unsecured lending.

I think this should've prompted Loans 2 Go to carry out more thorough checks into Mr D's financial situation before agreeing to lend and it should have taken steps to verify what Mr D was saying about his financial circumstances. Loans 2 Go hasn't shown me it did this.

So, despite what Loans 2 Go has said about its lending policy, I can't fairly say that it carried out a proportionate check before agreeing to lend to Mr D.

I've thought about what a proportionate check is likely to have revealed to Loans 2 Go.

Mr D has provided his bank statements for the months running up to him taking out loan 1 so I've looked through these to see what Loans 2 Go was likely to have found out.

In the absence of other evidence, I think these give a reasonable picture of Mr D's finances at the time he was borrowing from Loans 2 Go.

And had Loans 2 Go looked in more depth at Mr D's finances it would likely have realised that he was facing serious problems managing his money.

I think it would have learned that Mr D was regularly spending significant amounts on what appear to be gambling transactions and using multiple other high cost lenders.

This means I don't think it was reasonable for Loans 2 Go to think that it was likely Mr D would be able sustainably to repay loan 1 – or any further lending. So it shouldn't have provided this loan - or the loans that followed, unless it was able to see that his financial situation had improved.

For loan 2, although he repaid loan 1 and applied to borrow a smaller loan, I don't think Loans 2 Go had any real reason to think that Mr D's financial situation had improved overall.

And its updated credit showed his reliance on expensive credit had increased in the few months since he had taken out loan 1 – mostly unsecured loans – and his credit report showed indications of an account in 'early delinquency'.

So I think it should've been evident that his overall financial situation had deteriorated and so loan 2 wasn't likely to be sustainably affordable for Mr D and shouldn't have been provided.

By loan 3, the credit report Loans 2 Go obtained showed that Mr D was now 6 months in arrears on one outstanding loan, there was evidence of further borrowing and he still had credit cards that were at or over the account credit limit. He was still operating at the limit of his overdraft on a current bank account.

Mr D was taking a top-up loan from Loans 2 Go – in other words, borrowing enough to repay the balance owing on loan 2 and also provide him with some extra money.

This was a borrowing pattern that Loans 2 Go should've recognised as it reflected what it could've seen on Mr D's credit record about the way he was using credit to effectively move his debt from loan to loan.

So I don't think Loans 2 Go was able fairly and reasonably to conclude, given what it knew about his credit history and the previously acquired evidence of his gambling, that Mr D would be able to keep up the monthly repayments on this loan in a sustainable manner.

And I think that's borne out by the problems he ran into making the monthly repayments on this loan – which I think were reasonably foreseeable when Loans 2 Go provided it.

So for these reasons, I'm upholding Mr D's complaint about loans 1 - 3.

Putting things right

I haven't seen anything which makes me think Loans 2 Go acted unfairly towards Mr D in any other way. So I'm not awarding any additional redress. But he has paid interest and possibly charges on a loan that should not have been provided to him. In line with this Service's approach, Mr D shouldn't repay more than the capital amount he borrowed. With this in mind, Loans 2 Go should:

- add up the total amount of money Mr D received as a result of being given loans 1 - 3. The payments Mr D made should be deducted from this amount
- if this results in Mr D having paid more than he received, then any overpayments should be refunded along with 8% simple interest* (calculated from the date the overpayments were made until the date of settlement)
- if any capital balance remains outstanding, then Loans 2 Go should attempt to arrange an affordable and suitable payment plan with Mr D bearing in mind the need to treat him positively and sympathetically in those discussions
- remove any adverse information placed on Mr D's credit file regarding the loans when they are paid.

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

My final decision

For the reasons given above, I uphold Mr D's complaint and require Loans 2 Go Limited to take the steps I've set out to put things right.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 23 September 2021.

Susan Webb
Ombudsman