DRN-3127793

The complaint

Ms J complains that loans she took out with Loans 2 Go Limited were unaffordable and should not have been provided.

What happened

Ms J is represented in bringing this complaint but for clarity I'll refer to Ms J in relation to their representations.

Ms J took out a loan (Loan 1) in March 2016 for £500. The total repayable was £1,160 over 12 months. She settled this loan early.

Ms J took out a further loan (Loan 2) in July 2019 for £250. The total repayable was £1,028.52 over 18 months. She withdrew from this agreement soon after.

Ms J says the loans were unaffordable and should not have been provided in the circumstances. She says she should have been advised of alternative means of dealing with her circumstances such as being signposted to a debt charity.

Loans 2 Go says it undertook thorough affordability assessments including a review of her bank statements and credit record. It also said interest was applied in line with the agreement.

When Ms J complained to our service, the investigator upheld the complaint. In relation to Loan 1 they said the information Loans 2 Go had at the time of lending would have shown she was already experiencing money problems, that it was unlikely Ms J would be able to sustainably repay the debt and it was increasing her indebtedness in a way that was unsustainable. In relation to Loan 2 they concluded that based on the information available Loans 2 Go ought to have undertaken further checks which would have likely shown Ms J couldn't sustainably repay it.

Loans 2 Go didn't agree – it said in relation to Loan 1 that whilst Ms J had some debts in a debt management plan, others were being well maintained. And it didn't see anything of concern in her bank statements. It pointed out Ms J had repaid the loan successfully. In relation to Loan 2 it said it had calculated Ms J had a monthly disposable income of £225.10 after the repayments (of £57.14) and that she was only behind one repayment.

So, the complaint has been passed to me for a final decision.

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 upholding this complaint for similar reasons to the investigator.

The relevant regulations and guidance are included in the Financial Conduct Authority's Consumer Credit Sourcebook (CONC). Loans 2 Go was entering a regulated credit agreement and it was required to take reasonable steps to be satisfied Ms J would be able to make repayments sustainably without having to resort to further finance.

Checks had to be proportionate to the specific circumstances of each loan application. In general, what makes up a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the particular circumstances of the consumer. For example, their financial history, any foreseeable changes in future circumstances, and any indications of vulnerability or financial difficulty. The amount, type, length of borrowing and cost of credit they have applied for would also be considered.

In light of this, I think the greater the potential risk to the consumer of not being able to repay the credit in a sustainable way, the more thorough a reasonable and proportionate check ought to have been

In relation to Loan 1, I agree the information Loans 2 Go had at the time of lending indicated that Ms J was already struggling to repay her existing debts. In particular, her credit file at the time which Loans 2 Go reviewed showed:

- A County Court Judgement applied against Ms J in October 2015.
- Five months of arrears on one credit card
- A debt management plan on a credit card for over year - the balance in the past year had only decreased by £30.
- A debt management plan on a loan - in the past six months the balance had increased.
- On both debt management plans Ms J was paying £1 a month towards the balance.

This is inconsistent with Loans 2 Go's calculations in regard to Ms J's disposable income. Given the above I think it was unlikely Ms J would have been able to repay this debt sustainably and this loan further increased her indebtedness. I don't think the fact that she did repay this loan in itself shows that it was affordable. This may well have come at the expense of further borrowing, falling behind on her existing financial commitments, or prolonging her existing financial problems.

In relation to Loan 2, the information Loans 2 Go had at the time of lending showed Ms J had one month of arrears on a hire purchase agreement (monthly due £189) and had taken out two short-term credit loans.

Loans 2 Go had calculated that Ms J's monthly disposable income was £282.24 – I think it ought to have realised that this was inconsistent with Ms J's arrears of £189. It's also inconsistent with the loan amount itself of £250. So, in the circumstances I think it would have been proportionate to undertake further checks to ensure the repayments were affordable and sustainable for Ms J.

Ms J's credit file at the time showed that in the six months leading up the lending she had taken out six high-cost, short-term loans and one high cost credit loan. Given the nature of these types of loans, this indicates that Ms J's financial situation wasn't stable and that she was regularly borrowing to meet her day to day expenses and repay her existing debt. This loan would have significantly increased Ms J's indebtedness and, on the evidence available, I don't think it was likely Ms J would have been able to sustainably repay it.

I understand Ms J withdrew from this agreement soon after and so the interest she's paid is lower than on the agreement. I've taken this into account when deciding what redress is fair and reasonable in the circumstances. I don't think I need to comment on how the interest has been applied as I will be addressing interest as part of the redress here.

Putting things right

When considering how to put matters right, I've taken into account the fact Ms J has had the benefit of the loan funds. It isn't possible to put Ms J back in the position she would be in had Loans 2 Go not provided the lending, so I think a fair way to put matters right is for it to remove any interest or charges applied to the loans and amend Ms J's credit file to remove any adverse information.

My final decision

My final decision is that Loans to Go Limited should:

1. Refund all the interest and charges Ms J has paid to date.

2. Where the borrowing is still in place, reduce the outstanding capital balance by the amount calculated at Step 1.

3. If, after Step 2, there remains an outstanding capital balance, Loans to Go Limited should ensure that it isn't subject to any historic or future interest and/or charges. But if Step 2 leads to a positive balance, the amount in question should be given back to Ms J and 8% simple interest* should be added to the surplus.

4. Remove any adverse information recorded on Ms J credit file as a result of the loans.

*HM Revenue & Customs may require the business to take off tax from this interest. If it does, the business must give the Ms J a certificate showing how much tax it's taken off if she asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms J to accept or reject my decision before 28 April 2022.

Stephanie Mitchell
Ombudsman