DRN-3307311

The complaint

Mr G, through a representative, says Loans 2 Go Limited lent to him irresponsibly.

What happened

Mr G took out an 18-month instalment loan for £570 from Loans 2 Go on 1 June 2019. The monthly repayment was £130.28 and the total repayable was £2345.04.

He says he was in financial difficulty when he applied and had Loans 2 Go carried out proportionate checks it would have seen he couldn't afford the loan.

Our adjudicator recommended the complaint should be upheld. He said from the lender's affordability checks it ought to have realised Mr G wouldn't be left with enough money to cover any seasonal and unplanned costs over the 18-month term. So there was a risk the loan would not be sustainably affordable for Mr G.

Loans 2 Go disagreed. It said its assessment showed Mr G would be left with a monthly disposable income of £337.88 which was enough to meet the loan repayments – and it had added a 10% buffer to allow for any unexpected bills.

As an agreement wasn't reached, the case was passed to me to make a decision. I reached the same conclusion as the adjudicator, but I relied on different evidence and made different findings. So I issued a provisional decision - an extract follows and forms part of this final decision. I asked for any comments or new evidence by 7 February 2022.

Extract from my provisional decision

I can see Loans 2 Go asked for some information from Mr G before it approved the loan. It asked for his monthly income and expenditure. It completed an income verification check. It increased his declared expenditure and added a buffer for unplanned costs. It checked Mr G's credit file to understand his existing monthly credit commitments and credit history. From these checks combined Loans 2 Go concluded the loan was affordable for Mr G.

I think these checks were proportionate, but I don't think Loans 2 Go made a fair lending decision based on the information it gathered. I'll explain why.

From the credit check it completed Loans 2 Go could see that Mr G had at least seven active credit accounts and was making monthly repayments of around £626 (assuming a minimum payment of 3% on his credit card balances). This was already a significant percentage of his income. He had declared this to be £1,875 and Loans 2 Go says its system defined the minimum income needed for the loan to be affordable to be £1,866.46.

Giving the loan put Mr G in the position where he would need to commit around 40% of his net income to credit repayments. I think the lender ought to have realised that this meant there was a high risk Mr G would be unable to sustainably repay the loan over an 18-month time period. And it was most likely he would need to borrow to repay it or suffer some other *kind of financial harm.*

There was already evidence from the credit check that Mr G was having problems managing his money. His existing credit accounts were up-to-date, but he had taken out at least 31 short-term loans since the start of 2016, as well as a number of longer-term loans. So I think it should have been clear to Loans 2 Go that Mr G was in a harmful cycle of borrowing to repay. He had settled his most recent short-term loan less than two months before this application so I can see no grounds for the lender to think his financial instability was historic.

I have thought about the lender's response to the adjudicator's assessment. But it seems to have only considered the pounds and pence affordability, and not whether there was a risk Mr G would be unable to repay this loan without borrowing to repay, or suffering other adverse financial consequences. And to meet its regulatory obligations under CONC it had to do this. CONC 5.2A.12(R) sets out:

The firm must consider the customer's ability to make repayments under the agreement:
(1) as they fall due over the life of the agreement and, where the agreement is an open-end agreement, within a reasonable period;
(2) out of, or using, one or more of the following:
(a) the customer's income;
(b) income from savings or assets jointly held by the customer with another person, income received by the customer jointly with another person or income received by another person in so far as it is reasonable to expect such income to be available to the customer to make repayments under the agreement; and/or
(c) savings or other assets where the customer has indicated clearly an intention to repay (wholly or partly) using them;
(3) without the customer having to borrow to meet the repayments;
(4) without failing to make any other payment the customer has a contractual or statutory obligation to make; and
(5) without the repayments having a significant adverse impact on the customer's financial situation.

It follows I think Loans 2 Go was wrong to give the loan to Mr G.

I have not found any evidence that Loans 2 Go acted unfairly or unreasonably in some other way.

I then set out what Loans 2 Go would need to do if I went on to uphold the complaint.

Mr G responded to my provisional decision before the deadline, accepting the findings and conclusion. Loans 2 Go did not respond.

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.

Our approach to unaffordable/irresponsible lending complaints is set out on our website and I've followed it here.

As neither party provided any new information or evidence in response to my provisional decision, it follows I have no reason to change the findings or outcome I set out in it.

I find Loans 2 Go was wrong to give the loan to Mr G.

Putting things right

I think it's fair and reasonable for Mr G to repay the capital that he borrowed, because he had the benefit of that money. But he has paid interest and charges on a loan that shouldn't have been provided to him.

So Loans 2 Go should:

- Remove all interest, fees and charges from the loan and treat all the payments Mr G made as payments towards the capital.
- As reworking Mr G's loan account will result in him having effectively made payments above the original capital borrowed, then Loans 2 Go should refund these overpayments with 8% simple interest calculated on the overpayments, from the date the overpayments would have arisen, to the date of settlement*.
- Remove any adverse information recorded on Mr G's credit file in relation to the loan.

*HM Revenue & Customs requires Loans 2 Go to deduct tax from this interest. Loans 2 Go should give Mr G a certificate showing how much tax it's deducted, if he asks for one.

My final decision

I am upholding Mr G's complaint and Loans 2 Go Limited must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 10 March 2022.

Rebecca Connelley
Ombudsman