DRN-3327684

The complaint

Mrs M has complained that Loans 2 Go Limited was irresponsible in lending to her.

What happened

In July 2018 Mrs M applied online for a loan from Loans 2 Go for £500. The loan was taken out over 18 months with an APR of 990.1% and her monthly repayments were £113.28 making the total repayable at the end of the term £2,039.04.

In August 2019 she repaid that loan with the proceeds of a second loan from Loans 2 Go for £1,000. That loan was also taken out over 18 months with an APR of 1013.2% and her monthly repayments were £228.56 making the total repayable at the end of the term £4,114.08.

Mrs M complained that Loans 2 Go hadn't properly checked the loans were affordable for her. She said if Loans 2 Go had checked her bank statements, it would have seen that she couldn't afford to repay the loans.

Loans 2 Go looked into her complaint and didn't uphold it. It said it had correctly assessed her suitability for both loans at the time she made her applications. Mrs M referred her complaint to us.

I issued a provisional decision explaining why I was minded to uphold Mrs M's complaint. In it I explained that we've set out our general approach to complaints about unaffordable/irresponsible lending -including all of the relevant rules, guidance and good industry practice - on our website.

Having carefully thought about everything, I said that there were two overarching questions that I needed to answer in order to fairly and reasonably decide Mrs M's complaint. These two questions were:

1. Did Loans 2 Go complete reasonable and proportionate checks to satisfy itself that Mrs M would be able to repay the loans in a sustainable way?

- If so, did it make a fair lending decision?
- If not, would those checks have shown that Mrs M would've been able to do so?

2. Did Loans 2 Go act unfairly or unreasonably in some other way?

The rules and regulations in place required Loans 2 Go to carry out a reasonable and proportionate assessment of Mrs M's ability to make the repayments under this agreement. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower focussed" – so Loans 2 Go had to think about whether repaying the loans would be sustainable. In practice this meant that the business had to ensure that making the repayments on the loans wouldn't cause Mrs M undue difficulty or significant adverse consequences. That meant she should have been able to meet repayments out of normal income without having to borrow to meet the repayments, without failing to make any other payment she had a contractual or statutory obligation to make and without the repayments having a significant adverse impact on her financial situation. In other words, it wasn't enough for Loans 2 Go to simply think about the likelihood of it getting its money back, it had to consider the impact of the loan repayments on Mrs M.

Checks also had to be "proportionate" to the specific circumstances of the loan 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 thought that a reasonable and proportionate check ought generally to have been *more* thorough:

- the *lower* a consumer'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 *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).

I carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mrs M's complaint.

Loan 1
With regard to the first question Mrs M told Loans 2 Go when she applied for the first loan that her monthly income was £1,486 and she spent £665 on other living costs and credit commitments. To verify that, Loans 2 Go carried out a credit search and verified her income.

Loans 2 Go said it found that Mrs M had a minimum monthly income of £1,081.61 and it calculated that Mrs M had living costs and credit commitments of £819.63. On those figures she would have had a disposable income of £148.70 after making the new loan repayment to Loans 2 Go.

I thought Loan 2 Go's checks were proportionate for this loan. But simply performing proportionate checks isn't always enough. A lender also needs to react appropriately to the information shown by those checks. Sometimes that will lead a lender to request additional information from a consumer. Or sometimes it will lead a lender to reject a loan application outright. And that's what I thought should have happened here.

That's because I could see there was a big difference between what Mrs M told Loans 2 Go about her income and expenditure and what it said it could see through its checks. I didn't think Loans 2 Go should have accepted the loan application knowing or having reason to suspect Mrs M wasn't giving it accurate information about her finances. So I thought Loans 2 Go should either have carried out further checks to establish her financial position with more certainty or it shouldn't have provided Mrs M with the loan.

As I concluded that Loans 2 Go should have carried out further checks for the loan, I needed to consider what it would have seen if it had done so. Mrs M provided some bank statements from around the time she applied for the loan. I wasn't suggesting here that these were the checks that Loans 2 Go should necessarily have done. But I thought looking at these would have given a good indication that Mrs M's financial situation around the time she applied for the first loan was a lot more complicated than she'd made out.

I reviewed Mrs M's bank statements in the two month period before she applied for the first loan. In June Mrs M's earnings appeared to be £860 and she received tax credits of £560 totalling £1,420. Of this about £718 went on household bills (excluding food) and £163 on repaying loans or making payments to individuals. That month she sent about £205 abroad.

By the time she applied for the loan on 27 July 2018 her financial position had sharply deteriorated. She earned £196 that month and had tax credits of £560 making a total of £756. Her household bills and loan repayments up to the 27th were slightly more than that, being about £544 and £207 respectively. That left her with no disposable income or money for food.

Although these figures suggested that the loan might have been affordable in June, it certainly wasn't in July. In addition there were a lot of transactions for this period that weren't clear. Mrs M had received money from other individuals but the transactions weren't regular and couldn't be guaranteed to continue. It looked as though she'd borrowed some money from individuals previously and was on a weekly payment plan with two other lenders. So if Loans 2 Go had made further checks, I thought it would have discovered that Mrs M's disposable income had shrunk to nothing, she was spending around as much as was coming in and that further credit was likely to make her situation worse.

In summary, if Loans 2 Go had carried out the further checks that I thought were needed for this loan, I thought it ought reasonably to have realised that Mrs M's financial problems were not going to be improved by it making this loan. And it would have probably seen that there was a significant risk that Mrs M wouldn't have been able to sustainably repay the loan. So I didn't think that Loans 2 Go had treated Mrs M fairly when it agreed to lend to her as it was likely that giving her more credit would simply add to her indebtedness.

Loan 2
By the time Mrs M applied for the second loan she'd changed jobs. She said her monthly income was £1,500 and her outgoings were £642.57. Loans 2 Go thought her expenditure and credit commitments were more likely to be £857.43 and it added a buffer of £80 to account for any fluctuations in income or expenditure. After doing so it calculated that she'd be left with disposable income of £334.01 after making the new loan repayments of £228.56. Loans 2 Go did another credit search which showed that Mrs M's credit score had got slightly worse since her application for the first loan.

However I noted Loans 2 Go was aware that Mrs M had fallen into arrears with repaying the first loan after a few months. It had had to contact her a number of times during the course of the loan about missed repayments. If Mrs M was having trouble repaying the first loan, it seemed to me that Loans 2 Go should have known that it would be probably be even more difficult for her to repay the second loan with repayments twice as much as for the first loan.

In the light of this I thought once again Loans 2 Go ought to have had enough concerns to have asked for more information. If it had asked for a copy of Mrs M's bank statements, that would have shown much the same picture as previously. Money was coming into and going out of her account from and to a number of different sources, some of whom appeared to be individuals who'd lent her money. She still appeared to be on a payment plan with another lender and also had made a payment to a debt collection agency.

In July 2019 Mrs M earned £1,120 and had tax credits of £545 making a total of £1,665. Her household bills and loan repayments that month were £960 and £463 respectively (ignoring the loan repayment due to Loans 2 Go in respect of the first loan). I calculated that would have left her with £242 for the new loan repayment of £228.56, food and everything else. So if Loans 2 Go had made further checks, I thought it would have discovered that Mrs M's financial position was still very poor and that further credit was likely to make her even situation worse.

I didn't think that Loans 2 Go treated Mrs M fairly when it agreed to make the second loan as it was likely that giving her more credit would simply add to her indebtedness.

I also considered whether Loans 2 Go acted unfairly in some other way and I said I hadn't seen any evidence that it did.

In response to my provisional decision Loans 2 Go made the following points:

- It used information from the Office of National Statistics (ONS) to calculate an applicant's average expenditure. Where an applicant's declared expenditure was less than the ONS figure, it would use the ONS figure.
- Even using the ONS figure, the loan was still affordable for Mrs M.
- Mrs M's credit score had only slightly worsened by the time of Loan 2.
- Mrs M's credit commitments weren't significantly different by the time of Loan 2.

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 don't have a problem with Loans 2 Go using the ONS information to calculate an applicant's expenditure. That seems to me a valid approach. The issue I had is the big difference between what Mrs M told Loans 2 Go about her income and expenditure and what it could see through its checks. That's why I think Loans 2 Go shouldn't have accepted the loan application knowing or having reason to suspect Mrs M wasn't giving it accurate information about her finances. I remain of the view that Loans 2 Go should either have carried out further checks to establish her financial position with more certainty or it shouldn't have provided Mrs M with the loan.

I appreciate that Mrs M's credit score had only slightly worsened by the time of Loan 2 and her credit commitments weren't significantly different at that point. What I think is important is that by that time Loans 2 Go had the benefit of having been in a lending relationship with Mrs M and knew that she'd already had difficulty making lower loan repayments. It's a reasonable assumption that repaying Loan 2 would have been even harder for her.

Putting things right

To put things right I think Loans 2 Go should:

- refund all the interest and charges Mrs M paid on loan 1;
- pay interest of 8% simple a year on any refunded interest and charges from the date they were paid (if they were) to the date of settlement;
- remove any interest and charges still outstanding on loan 2 and treat all the payments made by Mrs M towards this loan as payments towards the capital;
- if reworking Mrs M's loan 2 account as I've directed results in Mrs M effectively having 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;
- If reworking Mrs M's loan 2 account leaves an amount of capital still to be paid, then Loans 2 Go can use the total refund for loan 1 (after the deduction of tax) to offset this. And if there

is still an outstanding capital balance, then I remind Loans 2 Go that it should take a sympathetic view when seeking to agree an affordable repayment plan with Mrs M; and

- remove any adverse information recorded on Mrs M's credit file in relation to the loans.

My final decision

I uphold this complaint and require Loans 2 Go Limited to take the steps set out in the section above headed "Putting things right".

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 7 April 2022.

Elizabeth Grant
Ombudsman