DRN-3537754

The complaint

Mrs H complains through her representative that Loans 2 Go Limited lent her money on high cost loans which she was unable to afford to repay.

What happened

Loans 2 Go provided Mrs H with the following loans:

	Date	**Amount borrowed**	**Term (months)**	**Monthly repayment**	**Date repaid**
Loan 1	24.11.19	£470.00	18	£108	27.09.20
Loan 2	27.09.20	£550.00	18	£126	05.03.21
Loan 3	05.03.21	£2,420.23	18	£292	Not settled

Mrs H complained to Loans 2 Go that she couldn't afford the loans and that insufficient checks had been carried out. She entered into an individual voluntary arrangement (IVA) in September 2021. The Insolvency Practitioner confirmed that she only had £144 per month disposable income to repay all her unsecured debts once these had been included in the IVA.

Loans 2 Go said it that in respect of all three loans it had assessed them as being affordable. It carried out verification checks on her income and it also carried out a credit check for each loan.

Our adjudicator said that Loans 2 Go had made a fair lending decision in respect of loans 1 and 2. In respect of loan 3 he said from the information Loans 2 Go gathered, prior to making their lending decision for loan 3, he thought it was aware, or should've been aware, that Mrs H couldn't afford to sustainably repay loan 3. So, he thought Loans 2 Go had unfairly agreed loan 3.

I issued a provisional decision. In it I said that I said I didn't think that Loans 2 Go had made a fair lending decision in respect of either loan 2 *or* loan 3.

Mrs H accepted my provisional decision. And Loans 2 Go said it had no further points to make in response.

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 made the following provisional findings:

"*We've set out our general approach to complaints about unaffordable/irresponsible lending - including all the relevant rules, guidance, and good industry practice - on our website.*

Considering the relevant rules, guidance, and good industry practice, I think the questions I need to consider in deciding what's fair and reasonable in the circumstances of this complaint are:

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

- *If not, would those checks have shown that Mrs H would have been able to do so?*

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

The checks had to be "borrower-focused" – so Loans 2 Go had to think about whether repaying the loans would be sustainable. In practice this meant that Loans 2 Go had to ensure that making the repayments on the loans wouldn't cause Mrs H undue difficulty or significant adverse consequences. That means 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 H. 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. I think that such a 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 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).*

loan 1

The capital amount of this loan was relatively small, albeit that the instalments required a substantial commitment from Mrs H over 18 months. Loans 2 Go assessed her monthly income as around £1,493 a month. From that it assessed that she had credit commitments of £300, which, from the credit report, I think was reasonable to assess. She was using two credit cards, had a bank overdraft of just over £1,000 and a loan which she was repaying at the rate of £158 a month.

Loans 2 Go assessed Mrs H's monthly expenditure (including credit commitments) as being

£1,235, unfortunately not broken down any further. However the loan was said to be for "Christmas", so no debts were being paid off. She would have been left with a disposable income of £268 out of which to pay the new loan instalments of £108, which I think was just about affordable. Her credit commitments when taking into account the new loan, made up about 27% of her income. This was relatively high but from the checks carried out, which I think were proportionate, I think it made a fair lending decision.

The credit report showed an overdraft but it didn't give any details of how this might have changed in the months before applying for the loan. So I don't think Loans 2 Go would have been alerted to carry out any further checks.

I would observe that Mrs H's insolvency practitioner had the benefit of being able to check her bank statements but these haven't been supplied to us (despite our adjudicator inviting her representative to do so). So I'm not able to assess whether the monthly expenditure figure assessed was accurate.

loan 2

This loan was provided 10 months after loan 1, so although again it was for a relatively small amount, Loans 2 Go needed to take into account the information it had gleaned from the first loan application. This application showed Mrs H still had the same credit cards as before, the balance on one had decreased by £200 and on the other increased by £65. However she had taken out two new credit cards on which she had run up balances of £790 and £168. She had also taken out a new loan with another company within a month of loan 1.

In respect of this application, the credit commitments showing on the application were £300, but I assess them, from the credit report, to be around £439. With the old loan being paid off the instalment for this loan added £21 to that figure. But as that brought the proportion of her credit commitments to her income up to around 31%, I think that was too high, unless her disposable income had gone up.

There was no purpose set out for the loan in the application data, so I assume it wasn't earmarked for any debt consolidation (which didn't appear to happen anyway). Mrs H's disposable income had gone down to around £147 a month if I accept Loans 2 Go's figures.

However it's not just the pounds and pence calculation which should be taken into account. In my view the further credit Mrs H had incurred since loan 1 and the fact that her disposable income had gone down indicated that the loan was unaffordable to her. So, although I think Loans 2 Go still carried out proportionate checks, those checks should have led it to view the new loan as unaffordable. So I don't think it made a fair lending decision in respect of this loan.

loan 3

Mrs H's four credit cards all had higher balances by the time of this application, which was only six months after loan 2. Two of them were very close to their limit, and one was over the credit limit. She had also started using a fifth credit card which previously had had a nil balance. She had taken out a new loan within three days of loan 2. This paid off an old loan and increased the monthly payment by £30. I calculate her credit commitments, allowing a 3% payment for each credit card, to be around £683, allowing for the old loan to be paid off. Her monthly income had decreased slightly, so the proportion of her income spent on credit commitments had increased to (in my view) an unsustainable level of 46%.

I've noted that this loan was said to be for debt consolidation, though I can't see that Loans 2 Go took any steps to pay off any debts (except its previous loan), which it could have done. Realistically though Mrs H could only have paid off one loan which would have saved £92 a month, and two credit cards which could have released around a combined total of £36 a month. This would have brought the proportion down to around 38%, still in my view unsustainable taking into account what her previous record showed.

I think that again Loans 2 Go carried out proportionate checks for this loan. But those checks in my view should have led it to conclude that such a loan was unaffordable, even without carrying out further checks. I don't think it made a fair lending decision in respect of this loan."

As neither party has any further comments to make on my provisional findings, those findings are now final and form part of this final decision.

Putting things right

Mrs H has had the capital sum for loans 2 and 3 and it's fair that she repays this. I should remind her and her representative that if she's subject to an IVA, it is her responsibility to check that the supervisor of that IVA is aware of any award and they may require any payment to be made directly to them.

Loans 2 Go should do the following:

- Remove all interest, fees and charges applied to loans 2 and 3.
- Treat any payments made by Mrs H as payments towards the total capital amount of £2,970.23.
- If Mrs H has paid more than the capital, refund any overpayments to her with 8% simple interest* from the date they were paid to the date of settlement.
- But if there's still an outstanding balance, Loans 2 Go should come to a reasonable repayment plan with Mrs H.
- Remove any adverse information about loans 2 and 3 from Mrs H's credit file.

*HM Revenue & Customs requires Loans 2 Go to deduct tax from this interest. It should give Mrs H a certificate showing how much tax it's deducted if she asks for one.

My final decision

I uphold the complaint in part and require Loans 2 Go Limited to provide the remedy set out under "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 11 July 2022.

Ray Lawley
Ombudsman