

The complaint

Mr M has complained through a representative that Loans 2 Go Limited (Loans 2 Go) didn't carry out proportionate checks before granting a loan.

What happened

Mr M had a loan from Loans 2 Go and a brief summary of the lending can be found in the table below.

loan number	loan amount	agreement date	repayment date	term (month)	monthly repayment
1	£880	10/01/2022	outstanding	18	£180.89

Based on the most recent statement of account an outstanding balance remains due to Loans 2 Go, but all of Mr M's repayments appear to be up to date.

Loans 2 Go issued its final response letter about Mr M's complaint on 18 March 2022, in which Loans 2 Go concluded it hadn't made an error when it approved these loans.

Loans 2 Go said it carried out its normal verification checks, which included obtaining a credit report, and asked Mr M for his income and expenditure details.

To help with the affordable check it also used ONS (Office for National Statistics) data to assess the information Mr M declared for his expenditure and it also carried out a check to establish the reasonableness of Mr M's declared income.

Overall, Loans 2 Go believed Mr M had £377 of disposable income each month with which to afford his loan repayment.

Unhappy with this response, Mr M's representative referred the complaint to the Financial Ombudsman Service.

Mr M's complaint was considered by one of our adjudicators and it was upheld. He said that while Loans 2 Go may have thought the loan looked affordable based on the income and expenditure information Mr M provided, he didn't think the loan was sustainable.

He said that Mr M had around £5,500 of other credit, with a lot of it being recently opened and he was at or over his credit limit on a number of products. He also thought that the repayment to this loan and his other credit commitments represented a significant portion of Mr M's declared income.

Mr M's representative didn't respond the adjudicator's assessment.

Loans 2 Go didn't agree with the outcome. In response it said (in summary):

- There was no evidence of insolvency on Mr M's credit file.
- Mr M's credit commitments were being reported as either repaid or up to date.

- Mr M's credit commitments were high but that wasn't enough to say the loan should be upheld.
- From inception of the loan account Mr M has maintained his repayments and he hasn't indicated any financial difficulties.

As no agreement could be reached, the complaint has been passed to me to resolve.

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.

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.

Taking into account the relevant rules, guidance and good industry practice, I think the overarching 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 Mr M would be able to repay the loans in a sustainable way?
- If not, would those checks have shown that Mr M would have been able to do so?
- 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 Mr M's ability to make the repayments under the loan agreement. 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 the business had to ensure that making the repayments on the loan wouldn't cause Mr M undue difficulty or significant adverse consequences.

That means he 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 he had a contractual or statutory obligation to make and without the repayments having a significant adverse impact on his 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 Mr M. Checks also had to be "proportionate" to the specific circumstances of the loan applications.

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

For this loan, Loans 2 Go asked Mr M for his monthly income, which he declared as being £1,850. He also declared monthly living costs of £570. This is less (for his living cost), than the amount Loans 2 Go outlined in the final response letter. So, I assume that Loans 2 Go increased Mr M's living costs using ONS data.

But, notwithstanding the additional amount added to Mr M's declared living costs Loans 2 Go could've reasonably concluded that solely based on this information the loan looked affordable to Mr M.

Loans 2 Go says the loan was for consolidation purposes – however, no further information has been taken or provided which shows which outstanding debts Mr M may or may not have used the Loans2 Go capital to repay other loans. It's worth saying this here that it seems Loans 2 Go released the full amount to Mr M – so it had no way of knowing whether Mr M would consolidate any of his debts.

But I think there was enough information available to Loans 2 Go from the credit search results which indicated that Mr M was likely having financial difficulties. Loans 2 Go provided the full results to the Financial Ombudsman.

Having looked at these results, I do agree that there were no obvious signs of insolvency – although there does seem to be a historic default from 2017. I also accept that apart from the default there were no other missed payments and all of Mr M's credit accounts appeared to be up to date.

However, Loans 2 Go was aware that Mr M had six active credit accounts with an outstanding debit balance of just over £5,500. Loans 2 Go knew, that he already had two loans outstanding with monthly commitments of £354.

But what is concerning in my view, is that Mr M had four active credit cards of which three were over the credit limit set by the lenders. In addition, the fourth credit card was within £100 of the limit.

So, while, the repayment history towards these cards appeared good, Mr M was actually in breach of the credit agreements on three of his credit cards and in my view, this is a sign that Mr M may have started to have financial difficulties.

Also, Mr M would've needed to service the debt he already had. I've assumed a total monthly repayment to his existing creditors of around £450. This includes the two loan repayments as well as assuming that the credit card repayments were 5% of the balance. This is a reasonable assumption to make but of course the payments were likely to be higher to consider the interest that Mr M would need to repay.

He was also committed to repaying around £180 per month to Loans 2 Go – bringing his repayments solely to his credit commitments of around £630 per month. In my view, given what else Loans 2 Go knew about Mr M at the time, was a monthly commitment to other creditors which was unsustainable and too high. There was a real risk that Mr M couldn't

afford the repayments in a sustainable manner. As a result, I don't think Loans 2 Go should've approved this loan.

I'm therefore intending to uphold Mr M's complaint.

Putting things right

I think it is fair and reasonable for Mr M to repay the principal amount that he borrowed in respect this loan, because he's had the benefit of that lending. But as I have concluded Loans 2 Go shouldn't have provided this loan, it should look to remove the interest and fees from the amounts due under the loan agreement.

If Loans 2 Go has sold the outstanding debts it should buy these back if it is able to do so and then take the following steps. If Loans 2 Go is not able to buy the debts back then it should liaise with the new debt owner to achieve the results outlined below.

Loans 2 Go should:

- remove all interest, fees and charges applied to the loan;
- treat any payments made by Mr M as payments towards the capital amount;
- If and when Mr M has paid more than the capital, then any overpayments should be refunded to him with 8%* simple interest from the date the overpayments arose to the date of settlement;
- If an outstanding balance still remains, Loans 2 Go should try and come to a mutually agreeable repayment plan with Mr M – I remind it of its obligation to treat Mr M fairly and with forbearance and
- remove any negative information about the loan from Mr M's credit file.

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

My final decision

For the reasons I've explained above, I'm upholding Mr M's complaint.

Loans 2 Go Limited should put things right for Mr M as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 12 August 2022.

Robert Walker
Ombudsman