DRN-3665283

Financial Ombudsman Service

The complaint

Mr L complains through his representative that Loans 2 Go irresponsibly lent him money on high cost loans he couldn't afford to repay.

What happened

Loans 2 Go provided Mr L with the following loans:

	Date	Amount	Term	Monthly repayment	Date repaid
Loan 1	16/12/2019	£600	18 months	£137.13	04/12/2020
Loan 2	04/12/2020	£911.36	18 months	£208.30	Outstanding

Mr L paid the instalments on loan 1 and repaid the balance with loan 2. He got into difficulties with the repayments for this loan and was persistently in arrears. He complained to Loans 2 Go in January 2022.

Loans 2 Go said it carried out a series of stringent checks to establish whether the loans were affordable. These included verifying Mr L's income, carrying out a credit check for each loan and going through a detailed application process with Mr L. It assessed that the loans were affordable in each case. Nevertheless it offered to write off the balance owing on loan 2 and to refund £300 interest. Mr L rejected this and referred his complaint to the Financial Ombudsman.

Our adjudicator said that the checks carried out by Loans 2 Go showed both loans to be affordable for Mr L.

Mr L disagreed and in response his representative has sent in bank statements for the period before each of the loans. These show substantial gambling transactions. However, our adjudicator said that it wouldn't have been proportionate to expect Loans 2 Go to verify the information by reviewing the statements.

I issued a provisional decision. In it I said that although I thought Loans 2 Go had acted fairly in respect of loan 1, I didn't think it should have provided loan 2.

Mr L accepted my provisional decision.
Loans 2 Go has received the decision but hasn't commented on it.

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 the relevant rules, guidance, and good industry practice - on our website.

My provisional findings were as follows:

“*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 Mr L would be able to repay the loans in a sustainable way?*

- *If not, would those checks have shown that Mr L 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 Mr L’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 Mr L 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 L. 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

Mr L’s income was assessed as being a minimum of £1,715 a month. The credit check carried out by Loans 2 Go showed that he had two credit cards that were close to their limit.

He had two loans, one in default showing a "periodic" payment due of £387. Based on the amount he paid off this loan between this credit check and that carried out for loan 2, I think it reasonable to say that he was liable to pay £104.50 a month for the loan. Allowing a monthly payment of 5% of the outstanding balances on each credit card, and with the new loan instalment he would have been spending about 23% of his income on his credit commitments. As he was paying those and was not in default on any other payments this should have been affordable.

Loans 2 Go assessed his income as a minimum of £1,715. I think it reasonable to accept this, though his bank statements show a higher income. His total expenditure before paying the loan was assessed to be around £1,370 a month. I think the loan was affordable and that Loans 2 Go made a fair lending decision.

I've considered Mr L's bank statements. These do show substantial sums being spent on gambling and I accept would have raised serious questions about Mr L's ability to repay the loan. However his account didn't go overdrawn (so wouldn't have shown up in any credit check) and the regulations I've referred to don't require businesses to review bank statements. There was nothing, in my view, in the checks that Loans 2 Go carried out that would have indicated that it should have carried out any further checks (including reviewing any bank statements).

loan 2

When Mr L came back for another loan a year after the first loan, with six months to pay on that loan, this should have alerted Loans 2 Go to carry out a more thorough check. Mr L's income had gone down, and was now assessed at about £1,415 a month, but his overall credit commitments had gone up. The previous defaulted loan was still being paid, as I've said, at £104.50 a month. Even though loan 1 was being paid off, with the new loan instalment I calculate that his credit commitments would have been around £623 a month, about 44% of his income. Taking into account that one loan (with a monthly instalment of £125) was due to be paid off in the next month, this would have reduced that ratio to 35%. Nevertheless this was considerably higher than before and, as his income had gone down, an indication that he wouldn't be able to afford the new loan.

Loans 2 Go said it assessed Mr L's monthly expenditure at £1,133.15. Adding the new loan payment this would have left Mr L with about £73.50 a month disposable income which I don't think was sufficient, especially bearing in mind that this was the second loan. I don't think Loans 2 Go made a fair lending decision in this respect.

As with loan 1 I've reviewed Mr L's bank statements and note that he was continuing to spend considerable sums on gambling. As I'm upholding the complaint concerning this loan, I'll make no further comment on that."

As Mr L accepted my decision and as Loans 2 Go hasn't commented on my provisional findings, I remain persuaded that those findings were correct. They are now final and form part of this final decision.

Putting things right

Mr L has had the capital payment in respect of loan 2, so it's fair that he should repay this. So far as the loan is concerned, I think Loans 2 Go should refund all interest and charges as follows:

- Remove all interest, fees and charges applied to loan 2.

- Treat any payments made by Mr L as payments towards the capital amount.

- If Mr L has paid more than the capital, refund any overpayments to him 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 Mr L

- Remove any adverse information where appropriate about loan 2 from Mr L's credit file.

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

My final decision

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

I don't uphold the complaint concerning loan 1.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 30 September 2022.

Ray Lawley
Ombudsman