

The complaint

Mr O is being represented by a claims manager. He's complaining about Loans 2 Go Limited because he says it lent to him irresponsibly by granting a loan he couldn't afford.

What happened

On 26 November 2021, Mr O applied for a personal loan with Loans 2 Go. It accepted his application and lent him £1,000 for a term of 18 months. The interest rate was 770% and the monthly payment £205.

After the complaint was referred to me, I issued my provisional decision setting out why I believed it should be upheld. My reasons were as follows:

Before lending to Mr O, Loans 2 Go was required to carry out appropriate checks to ensure the repayments were affordable and sustainable. To decide whether this requirement was met, the key questions I need to consider are:

- Did Loans 2 Go complete reasonable and proportionate checks to establish that Mr O would be able to repay the loan in a sustainable way?*
- If so, was the decision to lend fair and reasonable?*
- If not, what would reasonable and proportionate checks have discovered, and would the decision to lend have been fair and reasonable in light of that information?*

The rules, regulations and good industry practice in place at the time the loan was approved required Loans 2 Go to carry out a proportionate and borrower-focused assessment of whether Mr O could afford the repayments. This assessment also had to consider whether the loan could be repaid sustainably. In practice this meant Loans 2 Go had to satisfy itself that making payments to the loan wouldn't cause undue difficulty or adverse consequences. In other words, it wasn't enough to simply think about the likelihood of him making payments, it had to consider the impact of the repayments on Mr O.

The affordability assessment and associated checks also had to be proportionate to the specific circumstances. What constitutes proportionate checks depends on a number of factors including, but not limited to, the particular circumstances of the consumer (for example their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount, type and cost of the credit being considered. Even for the same customer, a proportionate check could be different for different applications.

In general, I think a reasonable and proportionate assessment should be more thorough:

- the lower the customer's income, reflecting that it could be more difficult to make repayments 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 longer the term of the credit, reflecting the fact that the total cost is likely to be greater and the customer is required to make payments for an extended period; and*
- *the greater the instances and frequency of credit, and the longer the period of time during which a customer has been given credit, reflecting the risk that repeated refinancing may signal borrowing has become unsustainable.*

There may also be other factors that could influence how detailed a proportionate check should've been for a given application, including any indications of borrower vulnerability or foreseeable changes in future circumstances.

Loans 2 Go has described the information it gathered to assess whether Mr O's loan was affordable before it was approved. This included:

- *information contained in his application;*
- *two most recent payslips to verify his income;*
- *information obtained from a credit reference agency (CRA), giving details of his existing credit arrangements and any past issues with credit, including missed payments and defaults; and*
- *an expenditure assessment using a combination of modelled data for key expenses along with actual data from the CRA about the cost of his existing credit arrangements.*

After carefully reviewing the information Loans 2 Go obtained, I think there were factors that should have prompted it to carry out further checks before approving Mr O's loan and I don't agree the affordability assessment based mainly on modelled statistical data, rather than Mr O's actual circumstances, was reasonable and proportionate in this case. In my view, a combination of the following factors should have prompted further investigation:

- *The credit check shows Mr O had a county court judgement registered against him in July 2021 (only four months before the loan) for £3,117 and that this amount remained outstanding.*
- *The credit check also shows Mr O had missed a payment on a telecommunications contract the month before the loan was approved.*
- *The information for a number of the other categories listed in the credit report wasn't available for one reason or another.*

Loans 2 Go was providing high-cost credit and based on the information it received, I don't think it could reasonably be satisfied the loan was affordable. The information in the credit check was limited but what was available indicated Mr O may have experienced some recent financial difficulty. In these circumstances, I think further checks were required to complete a proportionate affordability assessment.

I can't know exactly what further checks Loans 2 Go might have carried out at the time, but I think a consideration of Mr O's actual income and expenditure would have been reasonable. So we've obtained copies of his bank statements for the months prior to the lending to establish what information could reasonably have been discovered.

A review of the statements for October and November 2021 shows that, prior to his loan with Loans 2 Go, Mr O's account was consistently overdrawn by an amount often

approaching £1,000 and he was paying daily overdraft interest. The only time his account returned to credit was immediately after he was paid and it then returned to an overdrawn state within a few days.

In addition, the statements show that, in October 2021, Mr O borrowed over £500 from Safety Net Credit/Indigo Michael and £200 from Lending Stream. There was a similar pattern in November 2021, when he borrowed a further £200 from Safety Net Credit/Indigo Michael and £290 from Lending Stream. The statements also show some gambling activity, with Mr O spending almost £100 with Bet 365 over the same period.

To me, the statements appear to show Mr O was dependent on short-term credit to fund his day-to-day living expenses and that he wasn't managing his finances well. If Loans 2 Go had adequately assessed whether the loan repayments were affordable and sustainable, it's my view it shouldn't have lent to Mr O. It's for this reason that that I'm currently proposing to uphold this complaint.

Neither Mr O nor Loans 2 Go provided any further submissions 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.

As neither party has made any further submissions in response to my provisional decision, my findings haven't changed from those I set out previously.

Putting things right

The principal aim of any award I make must be to return Mr O to the position he'd now be in but for the errors or inappropriate actions of Loans 2 Go. But that's not entirely possible here as the lending provided can't be undone.

Because I don't think Loans 2 Go should have lent to Mr O, I don't think it's fair for him to pay interest or charges on the amount borrowed. But he has had use of the money that was lent, so I think it's fair he repays the amount borrowed (without the addition of interest or charges).

To put things right, Loans 2 Go should now take the following steps:

- Calculate the total of all Mr O's payments towards the loan.
- If this exceeds the £1,000 borrowed, any excess above £1,000 should be paid to him with simple interest at 8% per year from the date of each overpayment to the date of settlement.

HM Revenue & Customs (HMRC) requires Loans 2 Go to deduct tax from any interest. It must provide Mr O with a certificate showing how much tax has been deducted if he asks for one. If Loans 2 Go intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

- If the total of all Mr O's payments doesn't exceed the £1,000 borrowed, Loans 2 Go should arrange an affordable payment plan with him for the shortfall.
- Remove any adverse information recorded on Mr O's credit file relating to this loan, once any outstanding balance has been repaid.

I'm satisfied this represents a fair and reasonable settlement to this complaint.

My final decision

For the reasons I've explained, I'm upholding Mr O's complaint. Subject to his acceptance, Loans 2 Go Limited should now put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 23 May 2024.

James Biles
Ombudsman