

## **complaint**

Mr P complains that he was mis-sold some logbook loans by Loans 2 Go Limited.

## **background**

Mr P took out five logbook loans with Loans 2 Go between February and December 2014. In 2015 his car was recovered by Loans 2 Go because he hadn't made the contractual repayments. The debt was sold to a third party.

In 2017 Mr P complained to Loans 2 Go that all the loans had been unaffordable. He said the affordability checks had been inadequate and he'd been lent to irresponsibly, as Loans 2 Go was aware of his gambling addiction. Mr P also said that when his car was recovered he was advised that his loan agreement had been settled in full, but in fact this was not the case.

Loans 2 Go did not agree, and said that the checks it had done were enough to establish Mr P's ability to repay the loans. It said Mr P had been aware that the vehicle recovery would not settle the loan agreement in full as the car required a new engine. There was no evidence to suggest he was told otherwise. Being dissatisfied with that response, Mr P complained to our Service.

Our adjudicator upheld this complaint, but only in respect of the issuing of the loans. He didn't think Loans 2 Go had provided Mr P with incorrect information about the settlement of his account. But he noted that Loans 2 Go was aware of Mr P's gambling addiction before lending to him, and that Mr P's bank statements showed that he was actually spending much more money on gambling than Mr P had said he was. So the adjudicator recommended that Loans 2 Go buy back Mr P's debt and refund all interest and charges on all the loans, with simple interest on the refunds at eight percent a year. He also said Loans 2 Go should ensure that no adverse information about the loans is reported on Mr P's credit file.

Loans 2 Go said it needed an extension of the deadline by which it was to send its reply. This was granted, but it didn't respond after the extended deadline (27 March), so the adjudicator arranged for an ombudsman to review this complaint.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Loans 2 Go had a responsibility to carry out checks that complied with the rules and guidelines in force at the time. At the time of the February loan, the relevant guidelines were the Office of Fair Trading's *Irresponsible lending – OFT guidance for creditors*. These required lenders to take reasonable steps to ensure that customers can make repayments in a sustainable manner, having regard to their other outgoings (paragraphs 4.2 to 4.4), and to take adequate steps to ensure that the information in a loan application is complete and correct (paragraph 4.29). It is irresponsible to lend where it is known, "or reasonably ought to be suspected," that the customer has not been truthful in his loan application (paragraph 4.31).

Since 1 April 2014 the rules and guidelines have been the chapter on responsible lending in the Financial Conduct Authority's *Consumer Credit Sourcebook* (chapter 5). These applied

to the other four loans. These regulations say that a lender must consider the customer's ability to make repayments as they fall due, but they also say that affordability checks should be proportionate. What is considered proportionate depends on factors such as the size of the loan, the amount of the repayments, and what Loans 2 Go knew about Mr P and about his circumstances. A lender must not accept an application for a loan where it "knows or ought reasonably to suspect that the customer has not been truthful" in his application (paragraph 5.3.7).

Loans 2 Go took Mr P's income and expenditure and ran a credit check. It also obtained his bank statements, and information about the value of his car. I agree with our adjudicator that these checks were proportionate to the amounts Mr P was borrowing and the amounts of the repayments. These were as follows:

Date (in 2014)	Loan	Repayments per month*	Agreed duration	Total to repay*
12 February	£900	£185:00	12 months	£1,980
16 April	£1,250	£229:17	12 months	£2,750
3 June	£1,597.50	£292:87	12 months	£3,514.50
8 August	£1,770	£324:50	12 months	£3,894
3 December	£2,000	£366:67	12 months	£4,400
*The total to repay was not always exactly 12 times the monthly repayment amounts, because the last repayment was sometimes a few pence more or less than the other 11.				

The information Mr P gave about his income and expenditure did indicate that the repayments for each loan would be affordable. For example, in February he declared a monthly income of £2,834, and expenditures totalling £1,680, which left him with a disposable income of £1,154 a month. That was easily enough for him to make the repayments. A new income and expenditure check was done for each loan, all with the same result.

However, the information Mr P provided was not accurate. Our adjudicator pointed out that while Mr P had declared that he was paying £50 a month in rent, he was actually paying rent of £500 a month, and that this was apparent from his bank statements. Mr P's statements also showed that on some days he had gambled hundreds of pounds a day. It was for these reasons that the adjudicator upheld this complaint.

I have reviewed the loan applications myself, including the banks statements which Mr P supplied at the time. Some pages of statements are missing, but nevertheless I can see that in just one week, from 5 to 12 February 2014, Mr P spent or withdrew a total of about £4,865 from one account (the one with an account number ending with 8832). So that *week's* expenditure, which Loans 2 Go knew about, was more than *four times* Mr P's declared *monthly* outgoings. That should have prompted Loans 2 Go to either ask Mr P more questions, or decline the loan altogether. If it had asked more questions, it's likely that it would have learned or deduced that Mr P had a gambling addiction (the statement shows that at least £850 of that expenditure consisted of card payments to a gambling website). I therefore agree that the February loan was mis-sold. It was obvious he could not afford it.

I have taken into account the fact that in that month Mr P won £1,900, but that was not enough to make the loan affordable. I also don't think it would have been reasonable to take gambling income into account (and Loans 2 Go did not take it into account, quite rightly).

That £4,865 figure included Mr P's rental payment of £500, but it was not clear from the bank statement what that payment was for. For the reasons I have given above, I think that Loans 2 Go should have asked him. But in support of his second loan application in April, Mr P provided further bank statements, and these did show that he was paying £500 a month in rent, because the payment reference is part of his address and the word "rent." So in April Loans 2 Go knew, or at least should have known, that Mr P's rent was ten times higher than he had said it was. Again, this should have at least prompted further questions, and alerted Loans 2 Go to the fact that Mr P was not providing accurate information about his finances.

The bank statements also show that on 16 April – the same day as the loan application – Mr P had spent £505 on gambling earlier that day, by making nine card payments to a website which Loans 2 Go knew was a gambling website. Loans 2 Go took this into account, and this spending and Mr P's true rent figure still left him with a disposable income of £60, so the April loan was still affordable. But because Loans 2 Go ought to have known that Mr P had not been truthful about his rent, I still think that the April loan was mis-sold.

In his third loan application on 3 June, Mr P provided bank statements which showed that he had been gambling very heavily throughout the month of May. He had spent £620 on gambling on 6 May, £100 on 12 May, £1,125 on 15 May (including £700 in one transaction), £855 on 19 May, £305 on 22 May, £1,570 on 27 May, and £150 on 28 May. Together with another £60 on 2 June, this adds up to a total of £4,785 during the month before the loan, just on gambling. This belies Loan 2 Go's earlier assessment (in April) that Mr P's gambling was just "voluntary payments made with spare money". He was clearly addicted to gambling, and this should have been apparent to Loans 2 Go in June. He certainly could not afford that loan.

There were two more loans, but I will stop there. It is clear from the evidence I have described above that Loans 2 Go should not have lent to Mr P in August or December either, given what they knew (or should have known) about him.

I broadly agree with the redress the adjudicator proposed, except that I do not think it would be fair to award interest on the refunds. Mr P did not complete his income and expenditure forms accurately, and while that is not a defence to this complaint, it did contribute to Loan 2 Go's decision to sell him these loans.

### **my final decision**

So my decision is that I uphold this complaint. I order Loans 2 Go to buy back Mr P's debt and refund the interest and charges applied to all five loans. All adverse information about the loans must be removed from Mr P's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 1 July 2018.

Richard Wood  
**ombudsman**