

## **complaint**

In summary, Mr S has complained that Loans 2 Go Limited provided him with a loan when he wasn't able to afford it.

## **background**

In September 2018 Loans gave Mr S a loan for £600 repayable over 18 months. It was a high interest loan with an interest rate of 989.9% APR. The total charge for the credit was £1,846.74, which meant the total amount repayable by Mr S for the £600 he was borrowing, was £2,446.74. The monthly repayments were £135.93. Mr S' net salary was approximately £2,050 a month. He had several pay day loans.

In its response to Mr S' complaint, Loans said that it carried out a thorough affordability assessment before approving the loan. And it took into consideration his declared income and expenditure, together with a review of his credit file. It was satisfied the loan was affordable as it believed Mr S had enough disposable income to be able to repay the loan.

Mr S' concerns were investigated by one of our adjudicators. He thought Loans should have realised the information shown in the checks it carried out, was concerning. And this should have prompted it to carry out further checks. He said the information provided by Mr S showed that he had significant outgoings and was borrowing to cover those outgoings. There was also evidence of gambling. So, he didn't think Mr S should have been given the loan.

Loans disagreed with the adjudicator's assessment. In summary, it said it had verified Mr S' bank account to check that he had enough income to afford the loan. And it obtained a credit report which showed no adverse information. It was satisfied with the level of checks it carried out.

## **my findings**

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 approach to considering unaffordable and irresponsible lending complaints on our website - including the key relevant rules, guidance, good industry practice and law. And I've considered this approach when deciding Mr S' complaint.

Having done so, I've decided to uphold Mr S' complaint. I'll explain why.

There are several questions that I've thought about when deciding if Loans treated Mr S fairly and reasonably when it provided him with the loan.

- 1) Did Loans complete reasonable and proportionate checks to satisfy itself that Mr S would be able to repay his loan in a sustainable way?
- 2) If not, what would reasonable and proportionate checks have shown at the time?
- 3) Ultimately, did Loans make a fair lending decision?
- 4) Did Loans act unfairly or unreasonably in some other way?

*Did Loans complete reasonable and proportionate checks to satisfy itself that Mr S would be able to repay his loan in a sustainable way?*

The rules that Loans had to follow, required it to carry out checks that would enable it to reasonably assess, whether Mr S could afford to repay the loan he was wanting to take out. This is often referred to as an “*affordability assessment*”.

The rules don't set out what specific checks it needed to carry out, but it did set out that those checks needed to be proportionate to the circumstances of the application. I think what this meant in practice, was that the scope and extent of Loans checks, needed to reflect the nature of the loan, bearing in mind things such as the amount of credit, the interest rate, the duration of the loan, the monthly and total amounts repayable, and any indications of customer vulnerability.

The checks to be carried as part of its affordability assessment, needed to be “borrower focussed”. What I mean by this is that the checks needed to consider whether paying the loan back would cause Mr S any difficulties or have any adverse consequences for him. It would also need to take into account factors such as the amount of money being lent, the term of the loan and the monthly repayments, total charge for the credit and the interest rate being charged. This isn't an exhaustive list.

And as a result of the above I think a reasonable and proportionate check needed to be more thorough if Mr S had a low income. This would reflect that it could be more difficult for him to make the loan repayments with a low income.

It would also need to be more thorough the higher the amounts he had to repay, as it would be more difficult to make higher loan repayments on a given income.

The length of the loan term would also be relevant, partly because where the loan duration is longer, the total cost of credit was likely to be higher. It would also be relevant because there is greater risk of a negative change in circumstances affecting Mr S's ability to repay, where repayments need to be sustained over a longer period.

With these principles in mind I've thought about whether Loans completed reasonable and proportionate checks to satisfy itself that Mr S would be able to repay his loan in a sustainable way.

In summary, then, the circumstances of this loan application are as follows:

- Mr S was applying for a high-cost credit product which had an APR of 989.9%
- The total cost of the loan was very high, particularly when viewed as a percentage of what Mr S borrowed.

Individually and taken together, there are several risk indicators here. So, I think that it was important for Loans to have conducted checks which gave it a thorough understanding of Mr S' financial position and to scrutinise the information it gathered carefully, asking follow-up questions where necessary, before agreeing to lend.

Loans has said it did carry out some checks before it agreed to provide Mr S with the loan. And this seems to be on the basis of carrying out a credit search and reviewing the income and expenditure information provided by Mr S. It says it carried out an affordability assessment based on this information.

Based on its assessment, Loans says that it thought Mr S' loan was affordable for him as it concluded he had surplus income each month.

But I think the information contained in the credit report it obtained should have raised concerns about the affordability of the providing the loan to Mr S. I say this because the credit report shows that Mr S had taken out approximately 30 short term loans over the previous 12 months. At the very least, the information Loans had, should have put it on notice to make further enquiries about Mr S' finances.

So, given the information Loans had, I don't think its checks were reasonable or proportionate in this case. And I'm not persuaded that the loan was affordable for Mr S. I say this because as I've set out above, I think even the information Loans obtained from Mr S posed real questions about his ability to sustainably repay the loan.

I say this because Mr S' background of having taken out pay day loans, suggests to me that he was already having difficulties in managing his finances when he sought a loan from Loans. And given the history of pay day borrowing, I think all this information should either have prompted Loans to decline the application or – at least – have alerted it to make further enquiries of Mr S' finances and assess the affordability of the loan for him.

*What would reasonable and proportionate checks have shown at the time?*

I think Loans should have ensured that the scope and extent of its checks were adapted to the circumstances of Mr S' application. This was a high cost loan being taken out by an individual with a history of taking out a significant number of short-term loans over a relatively short period of time. Given the information contained in the credit report that Loans had, I think this should have prompted it to carry out further checks to establish his financial position.

Mr S has provided additional information about his finances to help us better understand his circumstances and the potential impact on him of taking out this loan. He has provided us with copies of several months bank statements prior to his taking out the loan in September 2018. These statements record payments in respect of pay-day loans and that his monthly expenditure was far in excess of his monthly salary.

They also show Mr S had used a significant amount of his income to fund gambling over the previous 3 months prior to taking out the loan. It seems to me that this habit was placing a significant pressure on Mr S's wider position which was relevant to Loans' affordability assessment. And he also appears to have been in a cycle of taking out pay day loans, which should also have alerted Loans to question whether the loan was affordable for him. So, I don't think the Loans should have provided Mr S with this loan.

**Putting things right**

I think it is fair and reasonable for Mr S to repay the principal amount that he borrowed, because he had the benefit of that lending. And I understand that he has now done that. But he has paid interest and charges on a loan that shouldn't have been provided to him. So, I think Mr S has lost out and Loans should put things right for him. Loans should:

a) Remove all interest, fees and charges applied to the loan from the outset. Any payments made by Mr S should then be deducted from the new starting balance. If the payments Mr S has made total more than the amount he was originally lent, then any surplus should be

treated as overpayments and refunded to him with 8% simple interest\* calculated on any overpayments made, from the date they were paid by Mr S to the date the complaint is settled.

b) If there is still an outstanding balance, then Loans should agree an affordable repayment plan with Mr S, bearing in mind the need to treat him positively and sympathetically in those discussions; and taking into account his current ability to repay the loan from his present disposable income.

c) Remove any adverse information recorded on Mr S' credit file as a result of this loan.

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

### **my final decision**

For the reasons I've set out above, my decision is to uphold Mr S' complaint about Loans 2 Go Limited.

Under the rules of the Financial Ombudsman Service, I'm required to Mr S to accept or reject my decision before 11 April 2021.

Simon Dibble  
**ombudsman**