

The complaint

Mrs B complains that Loans 2 Go Limited made an irresponsible lending decision when agreeing to provide her a loan.

What happened

In May 2019 Mrs B took a personal loan with Loans 2 Go for £500. The borrowing was to be repaid over a period of 18 months with monthly payments of £114.28 giving a total amount repayable of £2057.04.

In February 2020 Mrs B complained to Loans 2 Go. She said that she believed the loan should not have been given to her as insufficient checks were carried out to determine whether the loan was affordable. She felt had this happened, it would have been clear the loan was unaffordable and Loans 2 Go had lent to her irresponsibly. She also complained about the interest rate of the loan.

Loans 2 Go sent its final response to Mrs B on 21 March 2020. It explained why it felt the checks it carried out were proportionate to determine whether the loan was affordable and it didn't agree it had been irresponsible with its lending decision. It said how it had taken both information provided by Mrs B during the application and information from online verification tools to be as accurate as possible with the income expenditure checks. It also allowed a further buffer of 10% on top of this and felt it demonstrated the loan was affordable and left Mrs B some disposable income.

Our investigator looked at Mrs B's complaint and said that he believed Loans 2 Go needed to do something to put things right with this complaint. He felt the amount of disposable income Mrs B would have been left with each month gave her little room for manoeuvre if her income or outgoings changed and further consideration should have been given to Mrs B's wider financial circumstances.

Mrs B's credit file obtained at the time of the lending suggested she'd had some recent financial difficulty – some of which could be considered significant. Six months before the loan was taken out she'd defaulted on a mail order account and there was a current arrear on a public utility account. The credit file also showed three separate payday loans taken out in the nine months leading up to the Loans 2 Go loan being taken out. Mrs B also had two running credit accounts opened recently which were close to their limits and her credit card limit was also close to the maximum. There was also an outstanding county court judgement from December 2016 with a balance of £1870.

Overall he thought the checks carried out by Loans 2 Go demonstrated that Mrs B wouldn't have been likely to make repayments sustainably over the full term of the loan agreement. He said Mrs B had lost out as her level of indebtedness had increased because of the lending decision, adding to the financial difficulty Mrs B was already experiencing and the borrowing proved to be unsustainable and harmful as a result.

He recommended that all interest and charges paid on the account be refunded. If the loan was still in place the balance should be reduced by the value of this and if any balance remained after this, Mrs B should be paid the surplus with 8% interest added. If a balance on the loan remained, it shouldn't be subject to any historic or future interest and or charges. It should also remove any adverse information recorded on Mrs B's credit file as a result of the interest and charges.

Loans 2 Go disagreed. It maintained that Mrs B would have been left with a disposable income after her new loan repayment and this was sufficient to deem the loan affordable. And it felt the credit report results were overall very positive. It accepted there was some adverse information but this is expected given the type of lending it provides. It appreciates not everyone has a perfect credit score, but it felt Mrs B demonstrated stability and that the monthly payments were affordable and it didn't think it had made an irresponsible lending decision.

Because Loans 2 Go disagreed, the complaint has been passed to me for final decision.

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.

I've decided to uphold this complaint for much the same reasons as our investigator and will explain why.

Our approach to unaffordable/irresponsible lending can be found on our website and I've followed this approach when considering Mrs B's complaint.

The rules and regulations relevant at the time Loans 2 Go provided Mrs B with the loan are set by the FCA in the Consumer Credit Sourcebook (CONC) rules. These required Loans 2 Go to carry out an assessment of credit worthiness with reasonable and proportionate checks to determine whether she could afford to repay the loan in a sustainable way. These checks needed to be borrower focused, so giving consideration to whether making the repayments in a sustainable way could result in difficulties to Mrs B.

There is no set list of checks defined as reasonable and proportionate and as these checks need to be borrower focused, it follows that this could be different from one person to the next.

Loans 2 Go feels the checks it carried out were reasonable and proportionate and that from these, it was clear the loan was affordable to Mrs B. So they believed she'd be able to meet the repayments without it being likely to cause difficulties or harm. I agree the checks carried out were reasonable and proportionate to the size of the loan and term of the borrowing. But I don't agree they demonstrated Mrs B was likely to be able to repay the loan in a sustainable way. Nor do I think a fair description of Mrs B's credit report from the application would be 'very positive'.

In the proceeding months ahead of the application with Loans 2 Go, it was apparent Mrs B wasn't able to meet her regular outgoings without difficulty or intervention. She had taken out three payday loans in nine months and had outstanding balances on all of them with very little repaid on each since they'd been taken out. The most recent of these applications was made just two months before the application with Loans 2 Go. And her other accounts were close to their credit limits.

The credit report also showed accounts where repayments had been missed with a default applied within the last six months to a mail order account and a county court judgement (CCJ) issued within the last three years. She also had a recent arrear with her public utility provider.

The reliance on payday lenders and adverse information on the credit file didn't demonstrate that Mrs B was in a very positive position with her finances. And I think the use of payday loans demonstrated, that despite the details provided and verified by Loans 2 Go and its verification checks, it was unlikely that Mrs B had the level of disposable income it said she had each month. And with the number of outstanding payday loans with little repayments made together with the CCJ outstanding, I think it was clear that it was unlikely that Mrs B would be able to repay the loan in a sustainable way. I think this should have been clear from the checks carried out and Loans 2 Go made an irresponsible lending decision when it provided Mrs B with the loan. Because of this I think Loans 2 Go need to do something to put things right.

I've not given any consideration to the interest rate – I know Mrs B complained about this as part of her complaint but the redress I'm directing Loans 2 Go to make will mean this point becomes redundant.

Putting things right

Mrs B cannot be put back in the position she would have been in had the loan not been taken out as she's had the benefit of the funds. But I think it's fair Loans 2 Go do the following to put things right for her now:

1. Refund all interest and charges Mrs B has paid to date.
2. If the borrowing is still in place, Loans 2 Go should reduce the outstanding capital balance by the amount calculated in step 1 above.
3. If after step 2 an outstanding capital balance remains, Loans 2 Go should ensure that Mrs B isn't subject to any historic or future interest and or charges. But if after step 2 there is a positive balance remaining, the amount in question should be given back to Mrs B with 8% simple interest* added to the surplus.
4. Remove any adverse information recorded on Mrs B's credit file as a result of the interest and charges.

*Loans 2 Go may be required to deduct tax from this payment at the standard rate. If it does it should provide Mrs B, upon request, a statement to show the tax deducted.

My final decision

For the reasons I've explained above, I uphold Mrs B's complaint against Loans 2 Go Limited and direct it to take the steps required above to put things right.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 21 April 2022.

Thomas Brissenden
Ombudsman