DRN-2642794

The complaint

Miss B complains about a loan provided to her by TFS Loans Limited which she says was unaffordable.

What happened

TFS Loans provided Miss B with a loan as follows:

Date taken	Amount	Term	Monthly repayment	APR	Amount Payable
07/09/2015	£7,500.00	60	£279.25	44.9%	£16,755.00

When Miss B complained to TFS it didn't uphold her complaint. It said all appropriate checks were done and it could see no evidence that its loan wasn't affordable for her. TFS said that as Miss B intended to use this loan partly to clear other debt it would put her in a better financial position.

Our investigator assessed the complaint and didn't think that we could uphold it.

As Miss B disagreed with our investigator's view, it has come to me to consider afresh and make a decision. Miss B mainly told us that she really struggled after getting the loan and her finances got worse from paying the high interest.

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 have also taken into account the law, any relevant regulatory rules and good industry practice at the time. And having done so, I've come to the same view as our investigator and I'm not upholding this complaint. I'll explain why I say this.

There are some general principles I will keep in mind and questions I need to think about when deciding whether to uphold Miss B's complaint.

Before agreeing to lend, lenders must work out if a borrower can afford the loan repayments alongside other reasonable expenses the borrower also has to pay. This should include more than just checking that the loan payments look affordable on a strict pounds and pence calculation. A lender must take reasonable steps to satisfy itself that the borrower can sustainably repay the loan – in other words, without needing to borrow elsewhere.

The rules don't say what a lender should look at before agreeing to lend. But reasonable and proportionate checks should be carried out.

For example, when thinking about what a borrower has left to spend on a new loan after paying other expenses, as well as taking into account things like the loan amount, the cost of the repayments and how long the loan is for, a proportionate check might mean a lender should also find out the borrower's credit history and/or take further steps to verify the borrower's overall financial situation.

In light of this, I think that a reasonable and proportionate check ought generally to have been *more* thorough:

- the *lower* a customer's income (reflecting that it could be more difficult to make any repayments to credit from a lower level of income)
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet higher repayments from a particular level of income)
- the *longer* the period of time a borrower will be indebted (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make repayments for an extended period).

If reasonable and proportionate checks weren't carried out, I need to consider if a loan would've been approved if the checks had been done. If proportionate checks were done and a loan looked affordable, a lender still needed to think about whether there was any other reason why it would be irresponsible or unfair to lend.

For example, if the lender should've realised that the loan was likely to lead to more money problems for a borrower who is already struggling with debt that can't be repaid in a sustainable way.

I've kept all of this in mind when thinking about whether TFS did what it needed to before agreeing to lend to Miss B.

TFS asked Miss B about her income and expenditure. TFS said that it did its own background checks that verified Miss B's income as £1,800 a month. Then, after asking her about her expenditure, including her spending on other credit commitments disclosed in the credit checks that TFS carried out and taking into account that the loan purpose was in part to pay other existing debts, it worked out that Miss B would have just under £550 in disposable income left to spend *after* paying her TFS loan.

I think the checks TFS carried out before agreeing this loan were reasonable and proportionate in the circumstances.

But it looks like there was a misunderstanding between TFS and Miss B about exactly which debt the TFS loan would be used to pay – and as a result the affordability figure that TFS worked out wasn't accurate.

Miss B had clearly stated on her application that the loan purpose was to repay debts included in a debt management plan and the balance was to buy stock for a business.

I've carefully listened to the call recordings of discussions between Miss B and TFS during the loan application process.

When TFS asked her about two other outstanding loans it identified on its credit checks that weren't included in the debt management plan I think it's fair to say that Miss B misunderstood the question. It sounds to me like she thought TFS was referring to loans included in her debt management plan. So when she said that these debts were “going now” as TFS would be paying them off, that was incorrect since TFS was only paying those debts already included in the debt management plan.

I think that TFS ought to have realised this was a miscommunication and it made an error when it didn’t. It was a condition of its loan that it paid the debts in Miss B’s debt management plan before releasing the loan balance. TFS had obtained details of those creditors it was paying direct and so it would’ve been aware that it wasn’t sending any money to clear the two loans that cost Miss B around £201 each month.

But, like our investigator, I don’t think this is enough of a reason on its own for me to uphold Miss B’s complaint. I say this because I don’t feel that I can fairly say that Miss B lost out financially as a result of the misunderstanding. That’s because the TFS loan would still have looked affordable even allowing for Miss B not also consolidating the loans that cost her £201 each month.

Based on what Miss B told TFS about her income and expenditure, it looked like she still should’ve had around £350 spare cash after paying these loans and her new TFS loan.

I’m also mindful that if Miss B had wanted to clear all her outstanding debts (and after listening carefully to phone calls I can understand why TFS thought that was her intention) then she could have used the TFS loan balance to do that herself – and had she done so she would have been £201 better off each month.

So, whilst I am very sorry to learn that she feels her financial situation was worse after she took out the TFS loan, I haven’t seen enough to make me think that it would be fair to hold TFS responsible for this.

I haven’t seen enough to say that TFS acted towards Miss B in any other way that was unfair or unreasonable.

I’ve thought about what Miss B has said about the high cost of the loan – and I think there was a large amount of interest payable. But I've carefully listened to the call recordings when these loans were set up.

TFS explained the overall cost of the loan and the monthly repayments – which Miss B confirmed were affordable for her.

The loan documents set out the terms and the amounts of interest payable as well as the overall loan cost over the loan term.

Miss B had to actively engage in the loan application process at each stage.

Taking everything into account, I think Miss B was aware she was taking a high cost loan on terms she seemed happy to agree to at the time.

So this isn’t a reason for me to make any award against TFS.

I appreciate that this outcome will be disappointing for Miss B, but I hope that setting things out as I've done helps explain how I’ve reached this conclusion.

My final decision

For these reasons, I don’t uphold this complaint and I make no award against TFS Loans Limited.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss B to accept or reject my decision before 25 August 2021.

Susan Webb
Ombudsman