

## **The complaint**

Mr P complains TFS Loans Limited irresponsibly lent to him.

## **What happened**

TFS approved Mr P for a £7,500 loan in September 2014. The term of the loan was 48 months; with repayments of approximately £290.

Mr P says the loan was irresponsibly lent to him by TFS as it was unaffordable to him. He says had TFS completed reasonable and proportionate checks it would've realised the loan was unaffordable and not lent. Mr P says at the time of applying for the loan he was experiencing financial hardship; and was spending a significant amount of money gambling.

Our investigator recommended the complaint be upheld. In coming to this opinion they said:

- TFS did not complete reasonable and proportionate checks. This was because the evidence Mr P provided to support his income showed a significant proportion was made up by overtime payments. Our investigator also felt the checks completed by TFS showed Mr P had a high level of existing debt; and his credit file had shown negative markers. Our investigators opinion was that TFS needed to do more to verify Mr P's income and outgoings as a result;
- Had TFS completed further checks it would've seen the loan was likely unaffordable to Mr P. This was because his outgoings exceeded his income. In coming to this conclusion the investigator relied on bank statements Mr P had provided. These demonstrated Mr P was spending a substantial amount of money on online gambling websites. And as such his outgoings were higher than that which he declared. This therefore made the loan unaffordable to Mr P.

TFS disagreed with the assessment. It maintained it had completed proportionate checks. These checks did not demonstrate Mr P's outgoings (including gambling) exceeded his income. TFS also maintained it was entitled to rely on the information which Mr P had presented. As these checks and this information demonstrated the loan was affordable, TFS says it made a fair decision to lend.

## **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.

We've set out our approach to complaints about irresponsible and unaffordable lending as well as the key rules, regulations and what we consider to be good industry practice on our website. I've used this approach to help me decide this complaint.

TFS needed to take reasonable steps to ensure it responsibly lent to Mr P. The relevant rules, regulations and guidance at the time TFS lent required it to carry out reasonable and

proportionate checks. These checks needed to assess Mr P's ability to afford the loan and repay it sustainably over its term without causing him financial difficulties.

There isn't a set list of checks a lender needs to carry out, but they should be proportionate, taking into account things like the type, amount, duration and total cost of the credit, as well as their circumstances.

And it isn't sufficient for TFS to just complete proportionate checks – it must also consider the information it obtained from these checks to make a fair lending decision. This includes not lending to someone in financial hardship; and ensuring repayments can be made sustainably without having to borrow further.

The purpose of Mr P's loan was listed as debt consolidation and contribution towards a new car. TFS says it completed proportionate checks. It says it completed an income and expenditure assessment for Mr P; as well as searching his credit file. It also asked Mr P to provide a payslip. Mr P also provided a transaction history.

Mr P's credit file showed that he had around £10,500 in existing total debt. This was made up via a number of different products including credit cards and unsecured loans. Importantly these lines of credit had all been opened relatively recently. There was also a history of borrowing via payday lenders which had some negative markers on them. The credit file also showed Mr P had a current account that had had issues with an overdraft which had been closed at the beginning of 2014. There was also a default registered around 12 months prior to this loan application for a different product.

TFS says these checks did not show any concerns over lending to Mr P; and that Mr P would be able to afford the loan (once consolidation of an existing loan was complete).

I've considered TFS arguments but disagree that proportionate checks were completed in this instance. Whilst it has asked for some information to verify Mr P's application; I'm not persuaded this was sufficient to enable it to make a fair lending decision. As has been explained above Mr P provided a transaction history rather than bank statements. Whilst these transaction histories do provide some information; they are clearly not as detailed as bank statements. And I'm persuaded; considering the information on Mr P's credit file – TFS should've obtained more information to verify further Mr P's outgoings.

As TFS did not do this; I'm not satisfied proportionate checks were completed in this instance.

Mr P has provided our service with full copies of his bank statements from various current accounts. These cover the period leading up to and after the application for this loan. And I've used these (as well as the rest of the information on file); to decide what further checks would've shown had TFS completed proportionate checks.

The statements show that Mr P's outgoings were significantly higher than those which he declared to TFS. The majority of this increase in outgoings is compiled of Mr P's online gambling transactions. There are multiple transactions for large sums of money; including but not limited to transactions amounting to over £100 on a daily basis. Looking through the statements it is clear Mr P is conducting multiple transactions on a very regular basis; and as such I'm satisfied that TFS ought've taken these into account when deciding if Mr P could afford the repayments for this loan.

Due to the high volume of online gambling transactions, the statements show that Mr P's disposable income was significantly less than TFS had calculated. The statements show Mr P is running a very tight, if not negative budget on a monthly basis. And whilst TFS is entitled

to rely on the fact Mr P says he was consolidating some of his debt; I'm not persuaded these savings were sufficient to make the loan affordable to him. As TFS is aware, it needs to ensure any lending is sustainable to the borrower; and that includes not incurring further hardship or having to borrow to support an applicant's income. Looking through the statements I'm satisfied that Mr P's finances were such that he could not sustainably afford the repayments.

As such I'm satisfied TFS acted unfairly in approving this loan to Mr P.

### **Putting things right**

In order to put things right; I require TFS Loans Limited to:

- Add up the total amount of money Mr P received as a result of having been given this loan. The repayments Mr P made should be deducted from this amount; as well as any charges or fees associated with the loan.
  - a) If this results in Mr P having paid more than he received, then any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement). †
  - b) If any capital balance remains outstanding, then TFS Loans Limited should attempt to arrange an affordable/suitable payment plan with Mr P.
- After all adjustments have been made and once there is no outstanding balance, TFS Loans Limited need to remove any negative information recorded on Mr P's credit file regarding this loan.

† HM Revenue & Customs requires TFS Loans Limited to take off tax from this interest. TFS Loans Limited must give Mr P a certificate showing how much tax it's taken off if he asks for one.

### **My final decision**

My final decision is that I uphold this complaint against TFS Loans Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 24 February 2022.

Tom Whittington  
**Ombudsman**