

The complaint

Mr P says TFS Loans Limited lent to him irresponsibly.

What happened

Mr P took out a guarantor loan from TFS in December 2015. It was for £7,500 over 60 months. The monthly repayment was £270.25 and the total repayable was £16755.

Mr P says he was given a loan he couldn't afford. TFS should have seen that his debt problems were getting worse from his credit report.

Our adjudicator recommended the complaint should be upheld. He said it was clear from Mr P's credit history that it was unlikely he would be able to sustainably repay the loan.

TFS disagreed with the adjudicator's view, so the complaint was passed to me for a final decision. I reached the same conclusion as the adjudicator but relied on additional evidence and made new findings. I issued a provisional decision to allow both parties to comment or provide further evidence before a final decision was reached.

An extract from the provisional decision follows and form part of this final decision.

TFS asked for some information from Mr P before it approved the loan. It asked for details of his income, his monthly living costs and his existing credit commitments. It checked his declared income against a recent payslip and used an income verification tool. It checked his credit file to understand his credit history. It also asked about the purpose of the loan which was primarily to repay his debt management plan and another loan. From these checks combined TFS concluded Mr P had sufficient monthly disposable income for the loan to be affordable.

But I don't agree that these checks were proportionate. Mr P was applying to borrow a significant amount of money from TFS. He was entering into a long-term commitment and would need to make monthly repayments for five years. So I would expect that TFS would want to gather, and independently check, more detailed information about Mr P's financial circumstances before it agreed to lend to him. And as our adjudicator set out in detail, Mr P's credit file suggested Mr P was having problems managing his money – he had continued to borrow - and defaulted on two accounts - whilst in a debt management plan and there were indications that his previous attempts to consolidate debts had failed. So, in the round, I think it would have been proportionate for TFS to independently check the actual state of Mr P's finances before agreeing the loan.

This means I need to look at what proportionate checks would most likely have shown TFS and consider if it ought to have realised that there was a risk Mr P couldn't sustainably afford the repayments.

I have looked at Mr P's bank statements. This is one way TFS could have gathered the information I think it needed on Mr P's financial situation. From the statements it is clear Mr P was having problems managing his money – supporting the conclusion the adjudicator

had reached.

In the three months prior to this loan application Mr P spent in excess of his monthly income, each month, on gambling. And he had already taken out loans totalling £5,500 with at other high-cost lenders in the month of this loan application. So I think that if TFS had completed proportionate checks, it would have realised this loan was most likely not sustainably affordable for Mr P. And as a responsible lender it would have decided not to approve his application.

I have also looked at whether TFS acted unfairly or unreasonably in some other way. I haven't found any evidence that it did.

Mr P responded saying he didn't need to add anything. TFS did not respond to my provisional decision. It had previously confirmed it would if it had any additional points to make.

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.

Our approach to unaffordable/irresponsible lending complaints is set out on our website and I've followed it here.

As neither party submitted any new evidence or comments, I have no reason to change the findings or outcome I set out in my provisional decision.

It follows I am upholding Mr P's complaint.

Putting things right

It's reasonable for Mr P to have repaid the capital amount that he borrowed as he had the benefit of that money. But he has paid interest and charges on a loan that shouldn't have been given to him. So he has lost out and TFS will need to put things right.

It should:

- Remove all interest, fees and charges on the loan and treat all the payments Mr P made as payments towards the capital.
- If reworking Mr P's loan account results in him having effectively made payments above the original capital borrowed, then TFS should refund these overpayments with 8% simple interest calculated on the overpayments, from the date the overpayments would have arisen, to the date of settlement*.
- Remove any adverse information recorded on Mr P's credit file in relation to the loan.

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

My final decision

I am upholding Mr P's complaint and TFS Loans Limited must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or

reject my decision before 27 July 2021.

Rebecca Connelley
Ombudsman