

The complaint and what happened

Ms T complains that TFS Loans Limited, trading as Blue Fish Loans (“Blue Fish”), lent to her irresponsibly and without carrying out proper affordability checks. She would like all the fees and charges associated with the loan refunded, as well as any negative information removed from her credit file.

I’ve included relevant sections of my provisional decision from August 2021, which forms part of this final decision. In my provisional decision I set out the reasons why I wasn’t planning to uphold this complaint. In brief that was because I thought the checks that Blue Fish carried out went far enough and didn’t suggest that the lending was unsustainable for Ms T.

I asked both Ms T and Blue Fish to let me have any more information they wanted me to consider. Blue Fish accepted my findings, but Ms T has explained why she doesn’t accept my findings – she clearly feels strongly that Blue Fish acted as an unscrupulous “*loan shark*” and that my provisional decision is enabling it to “...*get away with...*” that poor behaviour.

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.

Having done so, I’m not upholding it, and I’ll reiterate why, but first I’ve included here the relevant sections of my provisional decision:

“What happened

In January 2010 Blue Fish approved a loan of £1,000 for Ms T, which was scheduled to be repaid at approximately £122 per month over a term of 18 months. The loan was apparently intended to consolidate debt and fund a holiday. When assessing the application, Blue Fish asked Ms T about her financial circumstances, got proof of income; reviewed some bank statements; and carried out a credit check before approving the lending. In 2011 Ms T ran into difficulties repaying the loan and its current status is unclear.

The investigator looked at the evidence and thought that Blue Fish carried out sufficient checks when assessing whether this loan was affordable for Ms T. But she thought that Blue Fish didn’t correctly respond to the information it had, and should have identified that the lending wasn’t affordable or sustainable. Blue Fish disagreed, and asked an ombudsman to look at the case.

What I’ve provisionally 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.

Having done so, I’m currently **not** planning to uphold it, and I’ll explain why.

I need to first look at what information Blue Fish had when considering Ms T’s loan

application, and then what information it should have gathered, given what it knew about Ms T and her circumstances.

Did Blue Fish's checks go far enough?

The regulations require potential lenders to carry out sufficient checks, proportionate to customer circumstances, to make sure that repayments can be made without undue difficulties and the lending therefore fairly judged as affordable. Neither the extent, nor the exact content, of checks is prescribed.

Bearing everything in mind, like the investigator, I consider that Blue Fish's checks were sufficient. It took steps to verify both her income and expenditure, as well as carrying out a credit check. Given the amount and term of the loan, and what it knew about Ms T, I don't think anything more in-depth was required.

The key issue in this case is whether the information it had should have led Blue Fish to turn down Ms T's application.

Should the information available to it have led Blue Fish to reject Ms T's request?

As I've already said, Blue Fish carried out a basic income and expenditure analysis (I&E), confirmed Ms T's income, and reviewed her expenditure via bank statements.

The I&E suggested that Ms T had a monthly income of around £1,683 and outgoings of around £570, *including* the proposed repayment on this loan of £122 per month. Also included in the outgoings were £150 for rent and about £250 to service other debt. On that basis, Ms T could have been judged to have been easily able to afford this loan.

However, other information it had available to it should have caused Blue Fish to reconsider this I&E. Firstly, it is clear (and recorded elsewhere by Blue Fish during the application) that Ms T's net income was significantly lower than £1,683, in fact being around £1,340. Secondly, Blue Fish did not appear to factor any ordinary living expenses, such as food or clothing, into Ms T's outgoings. Thirdly, Blue Fish needed to do more to truly understand the amount of money Ms T was likely to need to service all her debts. Having taken into account what is clear from her bank statements at the time, it would seem that Ms T may have needed as much as £550 per month to service debts, *not* including the repayment to Blue Fish which was under consideration.

So, in the round, I don't think Blue Fish did a good job of identifying Ms T's disposable income. Her income was lower, and her outgoings higher, than the amounts reflected on the I&E. I think it would have been fair, based on the information available, to estimate Ms T's outgoings per month at around £1,000, allowing for ordinary living expenses and a larger amount to service debt. In reaching that figure, I've also borne in mind that Ms T stated she would be using some of the loan to reconsolidate debt – meaning that it could have been expected that some of the debt she was repaying in the months leading up to this application would have been settled. However, as that was not detailed in the application, I can't assume that she would have settled large amounts of debt.

The investigator highlighted that Ms T's bank statements showed she had more debt than was seemingly declared, or taken into account. That is true. However, I don't think there was any evidence to suggest that she was unable to manage the debt she had. Aside from one occasion (with a particular explanation that Ms T gave Blue Fish in writing) she was not using an overdraft and the bank statements do not show any significant cause for concern. She was indeed using several short term and/or high cost lenders, but I don't find any evidence of dependence on that borrowing, or an inability to manage the repayments.

Ms T's credit check did show several defaulted accounts, and a County Court Judgement (CCJ) against her. However, these seem to have all occurred in 2004 – nearly six years before this application. So I don't think that those fairly historic issues should have led Blue Fish to refuse an application what was a relatively modest loan over a comparatively short

term.

So, in the round, and taking into account all the circumstances, I think the checks that Blue Fish completed were proportionate and suggested that Ms T was in a position to be able to sustainably repay this loan.

It therefore follows that I don't plan to uphold this complaint."

In her response to my provisional decision, Ms T expressed her frustration at what she perceives as me "siding" with Blue Fish, contrary to what our investigator thought about the case. And that she has read many negative reviews of Blue Fish on the internet, which bad practice I'm allowing it to continue by not upholding her complaint.

I entirely understand her feelings, and recognise the disappointment my decision will bring. However, my role as an Ombudsman is to consider the individual facts of each case put before me, in the context of the applicable rules and regulations, and decide whether anything has gone wrong in that case. As I explained in my provisional decision, whilst Blue Fish didn't do a good job of assessing the information it gathered about Ms T's financial circumstances, I don't think that caused her to lose out. All the information at the time of the application suggested the lending was affordable and sustainable for Ms T, and she hasn't been able to provide anything to the contrary.

It follows, therefore, that I don't uphold this complaint.

My final decision

For the reasons I've explained above and in the attached provisional decision, I do not uphold this complaint and Blue Fish does not need to do anything.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms T to accept or reject my decision before 2 November 2021.

Siobhan McBride

Ombudsman