DRN-3197710

The complaint

Miss M complained about a loan provided to her by TFS Loans Limited which she said was unaffordable.

What happened

TFS Loans provided Miss M with a loan as follows:

Date loan taken	Loan status	Amount	Term	Monthly repayment
15/12/2014	Paid	£5,000	36 months	£240.00

When Miss M 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 overall this loan was taken to repay Miss M's current debt management plan so she could move forward and improve her financial position. TFS arranged things so all of the accounts being managed under the plan were repaid in full.

Our investigator assessed the complaint and thought we should uphold it. He didn't think that the income and expenditure calculations TFS worked out left Miss M with enough spare cash each month to cover unexpected costs or changes in her circumstances. So he didn't think TFS should've provided the loan.

Whilst Miss M accepted our investigator's assessment, TFS disagreed. The complaint came to me to decide. I issued a provisional decision.

What I said in my provisional decision

Here are some of the main things I said.
"There are some general principles I will keep in mind and questions I need to think about when deciding whether to uphold Miss M'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.

And I've thought carefully about whether TFS took a 'borrower-focussed' approach before agreeing to lend to Miss M as it was required to do and considered what this all means for Miss M's complaint.

TFS asked Miss M about her income and expenditure. TFS looked at payslip details and used this to work out that Miss M's income should be around £1,220 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 M would have £29.22 in disposable income left to spend *after* paying her TFS loan.

From what I've seen from its checks, I think Miss M's credit history did raise some questions about her use of payday loans. But bearing in mind that borrowers applying for loans of this type often have other credit on their record and sometimes an impaired credit history, there wasn't anything that I'd expect a reasonable lender to be unduly concerned about. Also, it was early in the lending relationship and I think that setting up a debt management plan and applying to borrow in order to repay those loans signalled that Miss M was taking steps to take back control of her debt. So I think the checks it did were, broadly speaking, proportionate in these particular circumstances and enough for TFS to agree to lend.

And even if I were to take a view that the checks TFS carried out didn't go far enough, I haven't seen anything else to suggest that more or better checks would've resulted in additional information that would have led to a responsible lender deciding *not* to lend. So this doesn't affect the outcome of this complaint.

I've carefully listened to the call recordings between TFS and Miss M. TFS asked Miss M about a long list of things she might reasonably have had to pay for and carefully recorded Miss M's declared expenses.

Based on the information TFS gathered about her income and expenditure, it looked like she had only a small surplus each month of around £29 or so. But I don't think TFS properly factored into its income and expenditure calculations the savings Miss M would make if she used the loan for the purposes she had told TFS she wanted it. I'll explain why I say this.

TFS paid £1,884 directly to Miss M's debt manager to settle four payday loans that Miss M had been paying through a debt management plan. This meant she wouldn't any longer need to pay anything towards those loans.

Miss M had told TFS she also planned to use the loan to clear her current account overdraft and she had allowed for that being around £1,000. The credit checks TFS did showed this was £578 at the time, so the balance of the loan money Miss M received from TFS (£3,156) was ample for Miss M to be able to do this. Miss M had told TFS she was paying £50 per month to clear the overdraft on her current account under an arrangement with the bank – so this was a £50 saving she would make in future.

Miss M also planned to repay a family loan of around £1,000. I haven't seen much information about this. I don't know what the payment arrangements were but using the TFS loan to repay this debt in full was obviously achievable with the loan money she had available – and I think it's reasonable to take into account that this would potentially have relieved Miss M of some of the monthly debt burden she faced otherwise.

I can see on the credit report TFS obtained that Miss M had an outstanding payday loan from 2014 with a balance of £75. It wasn't identified as one of the loans in her debt management plan – but this small amount could easily have been cleared out of the loan if necessary.

Miss M said she was paying around £40 per month towards a credit card. The balance on her card was £959 at the time. So the TFS loan would've been enough for Miss M to repay this in full if she had wanted to prioritise clearing this debt as well. Of course, that was a matter for Miss M to decide.

And it appears that she wanted to use around £2,000 of the loan to cover Christmas spending. But I think it's fair to say that she could've significantly reduced her card balance without impacting on her spending plans just using the balance of the £1,000 she had originally thought she would need to use to clear her overdraft – taking the balance on her card down to £537. And if she had wanted to keep up the £40 per month repayments she told TFS she had been making towards her credit card balance, this would still have enabled her to make real inroads into reducing this balance within a reasonably foreseeable period.

So I think the TFS loan offered Miss M the real possibility of moving forward with her plan to manage her debt and spending more effectively – without leaving her short of the money she wanted for Christmas spending.

I think it's important to bear in mind the following:

- Miss M would save at least £50 per month by clearing her overdraft – that boosted her disposable income after paying for everything up to around £79 each month

- she could, if she wanted to, pay off her full card balance or, alternatively, make smaller monthly repayments on her credit card from time to time when she wished to boost the amount of monthly cash she would have available – freeing up some or all of the £40 per month this account had been costing her. So this was another way she could have increased her spending cash to more than £100 per month.

- TFS seems to have allowed for Miss M spending £161.50 on a loan each month but I'm unclear what this relates to – it doesn't appear to be something that's shown in the credit checks TFS acquired or mentioned anywhere else.

- Miss M lived at home with her parents – she already made a reasonable contribution each month to rent and food costs, TFS had allowed for this and Miss M didn't expect her circumstances to change. So I think it's fair to say that her financial situation in that respect seemed fairly secure – she wasn't at risk of having to cope on her own with unforeseen changes in rent or mortgage costs and there was shared responsibility for meeting all the usual household costs.

- I think our investigator was right to consider the possibility that Miss M might at some point want to set up home independently. And I think the onus was on TFS to ensure that she had enough flexibility in her budget to allow for unforeseen costs or the need for emergency spending arising. But I don't think I can fairly say that TFS was wrong or mistaken not to factor into its affordability calculations the potential costs to Miss M of setting up home on her own during the loan term. Miss M had specifically confirmed, when asked, that she didn't envisage her living arrangements changing.

- And I think TFS is right to say that *planned* change could only happen if the budget allowed and it was affordable.

- How Miss M spent her money was entirely a matter for her. But it's reasonable to mention that Miss M reported spending quite a significant amount on non-essentials that I think she could probably have considered cutting back on if her priorities changed and she decided to save money to pay for other things.

- I mention all this because I think it is fair for me to take into account that the loan TFS provided *could* have usefully helped Miss M with her debt consolidation plans as well as providing her with some extra cash.

To sum up, I'd expect TFS to decide Miss M's lending application based on the information it was reasonably entitled to rely on at the time. I think Miss M could have used the loan in ways that would've helped her to improve her overall financial situation. And I think she could've had more spare cash than TFS's income and expenditure calculations suggested – especially bearing in mind that her payslips for the two months running up to her taking out the loan showed she was actually paid approximately £60 more than the lower estimated amount TFS relied on October 2014 - and £30 or so more the following month. All in all, I think there was more flexibility in her finances than TFS's income and expenditure calculations initially suggested. Overall, I don't think the loan looked likely to be unaffordable for her – and using the loan in the way Miss M said she intended meant her finances could have improved over the loan term.

I haven't seen enough to say that TFS acted towards Miss M in any other way that was unfair or unreasonable so I haven't identified any other reason to uphold Miss M's complaint.

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

What the parties said in response to my provisional decision

No substantive comments have been received from either party

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 unaffordable/irresponsible lending complaints on our website and I've kept this in mind while deciding this complaint.

As the deadline for responses has now passed I think it's reasonable and fair that I should proceed with my review of this complaint.

I didn't feel that I had seen enough overall safely to be able to say that TFS should have realised this loan was not sustainably affordable for Miss M. So I couldn't fairly conclude that it acted unfairly or unreasonably when it provided it. And as no further comments have been received in response to my provisional decision and I haven't been sent any new information that changes what I think about this case, I still think it's fair not to uphold this complaint for the reasons I explained in more detail in my provisional decision.

My final decision

For these reasons, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 1 January 2022.

Susan Webb
Ombudsman