

The complaint

Ms H has complained that TFS Loans Limited ("TFS Loans") provided her with an unaffordable loan.

What happened

TFS Loans provided Ms H with a loan of £4000 in March 2015. This loan had a 36-month term with a monthly repayment amount of £193.61. This all meant the total amount repayable of £6969.96 was due to be repaid.

I issued a provisional decision on this complaint in December 2021. Both parties have received a copy of that provisional decision, but for completeness I include an extract from the decision below. I said;

"Were the checks that TFS Loans carried out reasonable and proportionate?"

Miss H declared her income to be £1000 a month from her employment and £550 from working tax credits. TFS Loans also asked Miss H about her expenses and used a credit search to check for her credit commitments. It says after it did this, it worked out that Miss H's disposable income was £334.93 after it factored in the loan repayment.

I've carefully considered what TFS Loans has said and on the surface of it, it had assessed Miss H to have a reasonable proportion of her monthly wages left over as disposable income. But like our investigator, this assessment for me didn't correlate with what TFS Loans more likely would have seen in the credit search that it carried out. Miss H had five historic defaults registered all with outstanding balances. In addition, Miss H also had two accounts registered in her name that she was in arrears on (a utility and a telecommunications account). So, the findings from the credit search and also Miss H's declaration didn't add up with the assessment that it had made and the disposable income that it had worked out Miss H had. I think there are enough discrepancies here for TFS Loans to want to find out more about the true extent of Miss H's finances.

When I think about what I have just concluded and also the amount Miss H was borrowing, the total cost and length of the loan (3 years), I think TFS Loans should have carried out a complete review of her finances to see whether the loan repayments were sustainable over the life of the loan, this would include verifying her expenditure in more detail.

As I can't see that this TFS Loans did do this, I don't think that the checks it carried out before providing Miss H with her loan were reasonable and proportionate.

Would reasonable and proportionate checks have indicated to TFS Loans that Miss H would have been unable to repay this loan?

As reasonable and proportionate checks weren't carried out before this loan was provided, I can't say for sure what they would've shown. So, I need to decide whether it is more likely than not that a proportionate check would have told TFS Loans that Miss H would have been unable to sustainably repay this loan.

Miss H has provided bank statements to our service from a short period of time leading up to when the loan was granted, and I've carefully considered the information provided. Having done so, it's clear Miss H was gambling regularly, leading up to the date when she applied for the loan. She was also consistently using her overdraft and at times spent over her limit. There were unauthorised usage fees and charges listed in the days before she applied for this loan.

Bearing all this in mind, I'm satisfied that reasonable and proportionate checks would more likely than not have shown TFS Loans that Miss H would not have been able to repay this loan in a sustainable manner as the information she has provided shows she was having problems managing her finances. In particular her gambling transactions were such that she was paying out more than she was earning. On balance, I think it would have become apparent to TFS that the loan repayments wouldn't have been sustainable over the life time of the loan. So, I'm currently minded to say that its failure to carry out proportionate checks resulted in it unfairly providing this loan to Miss H.

So, it follows that TFS Loans needs to put things right."

I asked both parties to let me have any comments, or additional evidence, in response to my provisional decision. Ms H responded and said she agrees with the provisional decision. TFS Loans did not respond.

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.

Ms H has not made any new points for me to respond to and TFS Loans has not responded. So, as neither party has anything further to add that I feel I need to comment on or that will change the outcome of this complaint, I don't see any reason to depart from my findings within my provisional decision. With that being the case, I uphold Ms H's complaint.

Putting things right

Having thought about everything, I think it would be fair and reasonable in all the circumstances of Ms H's complaint for TFS Loans to put things right by:

- removing all interest, fees and charges applied to the loan from the outset. The payments Ms H made, direct to TFS Loans and any third-parties, should be deducted from the new starting balance – the £4000 originally lent.
- If there is a balance still to be repaid, then TFS loans will need to exercise forbearance and arrange an affordable repayment plan with Ms H.
- If Miss H has already repaid more than £4000.00 then TFS Loans should treat any extra as overpayments. And any overpayments should be refunded to Ms H; adding interest at 8% per year simple on any overpayments, if any, from the date they were made by Ms H to the date of settlement†

† HM Revenue & Customs requires TFS Loans to take off tax from this interest. TFS Loans must give Ms H a certificate showing how much tax it has taken off if she asks for one.

My final decision

My final decision is that I uphold Ms H's complaint and direct TFS Loans Limited to put things right as described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 2 March 2022.

Mark Richardson
Ombudsman