

The complaint

Mr M complains Everyday Lending Limited, trading as TrustTwo, lent to him irresponsibly.

What happened

In July 2016 Mr M applied for, and was given a loan for £5,000, which was repayable over a period of 48 months (loan 1). The repayments were around £190 a month, and in total Mr M agreed to pay back about £9,200 over the four years, once interest was added.

In June 2017 Mr M applied for, and was given a loan for £6,000, which was repayable over a period of 60 months (loan 2). The repayments were around £235 a month, and in total Mr M agreed to pay back around £14,000. This second loan repaid the first loan.

Mr M says TrustTwo shouldn't have given him the loans because they weren't affordable. TrustTwo says it did check whether the loans were affordable, and Mr M had enough disposable income to make the loan repayments.

I issued a provisional decision about this complaint and explained why I thought the complaint about the first loan shouldn't be upheld but the complaint about the second loan should be upheld. I said:

"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 currently don't think the complaint about loan 1 should be upheld but I do think the complaint about loan 2 should be.

We've set out our approach to complaints about unaffordable and irresponsible lending on our website. And I've taken this into account in deciding Mr M's complaint.

TrustTwo needed to take reasonable steps to ensure that it didn't lend to Mr M irresponsibly. It should have completed reasonable and proportionate checks to satisfy itself that Mr M would be able to pay the loans in a sustainable way.

Loan 1

TrustTwo asked for some information from Mr M before it approved the loan. It asked for details of his income and got payslips to verify this. It reviewed his credit file to understand his credit history and existing commitments. Using the information on the credit file, what it was told by Mr M, and making some assumptions about Mr M's living expenses, TrustTwo calculated his outgoings. From these checks combined TrustTwo concluded that Mr M had enough monthly disposable income to afford the loan.

TrustTwo recorded Mr M's income as around £1,600, and as I've said, this was checked against his payslips. Mr M told TrustTwo he paid £200 rent/board and TrustTwo calculated his other living expenses as 35% of his income – around £560. In Mr M's circumstances – he was living with his parents and was single with no dependants – this doesn't seem

unreasonable.

Mr M's credit file showed he had two open credit accounts. The monthly payments towards these were around £230. This all means that before Mr M took out the TrustTwo loan, he had about £610 disposable income, according to TrustTwo's calculations, which would suggest the loan was affordable.

There wasn't much from Mr M's credit file that would suggest he was struggling financially. He'd missed a payment on an existing loan a few months earlier but there wasn't a lot of new credit being opened, other missed payments, recent defaults or anything else that you'd generally see if someone was in financial difficulties.

We know from the information Mr M provided when making his complaint, he had taken out a short-term loan the month before applying for the loan with TrustTwo. That loan didn't show when TrustTwo checked his credit file, but TrustTwo was aware Mr M previously had payday loans, as this was mentioned at the time.

Often, a reliance on short-term lending can be a sign that someone is in financial difficulties. But, in Mr M's case, if TrustTwo had questioned Mr M further when he mentioned payday loans, it would have found out he had only taken one loan and that had already been settled on time.

Overall, I think the checks TrustTwo did before agreeing to lend Mr M loan 1 were broadly reasonable and proportionate. In the circumstances, based on the amount Mr M was borrowing, the information he had provided about his income, expenditure and situation, together with the information on his credit file, TrustTwo's checks were good enough. And there was little to suggest Mr M would have any difficulties in affording to repay the loan. I currently don't think TrustTwo did anything wrong by giving Mr M loan 1.

Loan 2

The steps TrustTwo took before approving loan 2 were similar to the earlier loan. But there were some differences in what it found compared to a year before. Most notably, Mr M's credit file showed his level of indebtedness had significantly increased. He had taken out two further loans, as well as opening a credit card. Around 40% of his income was needed to service his existing credit.

The credit file also showed that Mr M had regularly been missing payments on three of his existing loans. While TrustTwo says he told it the arrears were "due to payment dates", compared with the situation when he took out the first loan, Mr M seems to be in a worse position financially. And as Mr M was missing payments on three loans, with presumably different payment dates, it's unclear how this explains the large number of missed payments.

As I've said, TrustTwo needed to check Mr M would be able to pay the loan sustainably. Being able to sustainably repay credit is doing so without undue difficulty, while being able to meet other commitments and without having to borrow further. TrustTwo has pointed to the fact Mr M didn't miss any payments on loan 1 to show it was reasonable to give him loan 2. But from what it shows on Mr M's credit file, it seems the since taking the first loan, he had needed to keep borrowing more, to meet the loan payments.

By taking out the new loan with TrustTwo, Mr M was increasing his indebtedness even further, when there were signs he couldn't afford the credit he already had. Giving someone who is already in financial difficulties additional credit, is unlikely to be considered responsible.

Overall, I currently don't think TrustTwo should have given Mr M loan 2. The information it obtained from the checks it completed showed it was unlikely Mr M would be able to repay the loan in a sustainable way."

Neither Mr M nor TrustTwo responded to my provisional decision by the deadline set.

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.

As neither TrustTwo nor Mr M have provided any new evidence or arguments in response to my provisional decision, I see no reason to depart from my provisional findings.

It follows that I still think the checks TrustTwo did before agreeing to lend Mr M loan 1 were broadly reasonable and proportionate. In the circumstances, based on the amount Mr M was borrowing, the information he had provided about his income, expenditure and situation, together with the information on his credit file, TrustTwo's checks were good enough. And there was little to suggest Mr M would have any difficulties in affording to repay the loan. I don't think TrustTwo did anything wrong by giving Mr M loan 1.

But I also still don't think TrustTwo should have given Mr M loan 2. The information it obtained from the checks it completed showed it was unlikely Mr M would be able to repay the loan in a sustainable way.

Putting things right

When I find that a business has done something wrong, I'd normally direct that business – as far as it's reasonably practicable – to put the complainant in the position they would be in now if the mistakes it made hadn't happened. In this case, that would mean putting Mr M in the position he would now be in if he hadn't been given loan 2. However, this isn't straightforward when the complaint is about unaffordable lending.

Mr M was given the loan and he used the money. In these circumstances, I can't undo what's already been done. So, it isn't possible to put Mr M back in the position he would be in if he hadn't been given the loan in the first place. Instead, I must consider another way of putting things right fairly and reasonably given the circumstances of this complaint. Having done so, I think TrustTwo should:

- a) Remove all interest, fees and charges applied to loan 2 from the outset. The payments Mr M made should then be deducted from the new starting balance. If the payments Mr M has made total more than the amount he was originally lent, then any surplus should be treated as overpayments and refunded to him.
- b) Add 8% simple interest* calculated on any overpayments made, from the date they were paid by Mr M to the date the complaint is settled.
- c) Remove any adverse information recorded on Mr M's credit file as a result of this loan.

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

My final decision

For the reasons I've explained, I uphold Mr M's complaint about his second loan but not the first. Everyday Lending Limited, trading as TrustTwo, should put things right for Mr M in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 29 December 2022.

Claire Allison

Ombudsman