DRN-4278734

The complaint

Mrs C says Tesco Personal Finance PLC (TPF) irresponsibly lent to her.

What happened

Mrs C took out a £6,000 loan over 120 months from TPF in July 2018. The monthly repayment was £65.85 and the total repayable was £7,902.

Mrs C says if TPF had done proper checks it would not have offered her a loan. This loan caused her debt to further spiral out of control. She was already in a debt management plan when she applied.

Our investigator upheld Mrs C's complaint. She said TPF's checks were not proportionate given the term of the loan and had it carried out better checks it would have seen the loan was not affordable for Mrs C.

TPF disagreed with this assessment and asked for an ombudsman's review. In summary, it said term alone was not a reason to do further checks, based on its analysis there was nothing to suggest the loan would not be sustainably affordable. And it had no reason to question why Mrs C was borrowing over such a long term.

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 general approach to complaints about unaffordable and irresponsible lending - including the key relevant rules, guidance and good industry practice - on our website and I've taken that into account when considering Mrs C's complaint.

TPF needed to take reasonable steps to make sure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mrs C could afford to repay what she was being lent in a sustainable manner. This means without having to borrow to repay or suffering other adverse financial consequences. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts, Mrs C's income and expenditure and her credit history.

This means to reach my decision I need to decide if TPF carried out proportionate checks at the time of the application; if so, did it make a fair lending decision based on the results of its checks; and if not, what better checks would most likely have shown. Also, did it act unfairly towards Mrs C in any other way.

TPF asked for some information from Mrs C when she applied for the loan. This included her net monthly income, her contribution to mortgage costs and her other existing credit commitments. It made an assumption about her living costs using national statistics. It then completed a credit check. It calculated she would have £822 monthly disposable income and so would be able to afford the loan based on the results of these checks.

I'm not persuaded the checks were proportionate. Given the term of the loan I think TPF ought to have done more to verify Mrs C's actual income and living costs. TPF argues in the absence of any other checks to verify Mrs C's income it should be able to rely on the information she provided. But I would remind it of the regulatory guidelines under CONC 5.2A.16 (G) which state in section 3):

> For the purpose of considering the *customer's* income under *CONC 5.2A.15R*, it is not generally sufficient to rely solely on a statement of current income made by the *customer* without independent evidence (for example, in the form of information supplied by a *credit reference agency* or documentation of a third party supplied by the third party or by the *customer*).

So in the context of a loan with a ten-year term I find better checks were needed. I have reviewed Mrs C's bank statements and income tax self-assessment form (she was self-employed) to understand what better checks would most likely have shown. I am not saying TPF had to do exactly this but it is a reliable way for me to understand what it would have learnt from proportionate checks.

Had TPF verified Mrs C's monthly income and outgoings it would have found her actual income was around £1,075 (not the £1,800 TPF relied on) and her contribution to non-discretionary living costs was around £525 (not the £385 used). After deducting Mrs C's existing credit commitments and mortgage contribution this meant she did not have enough disposable income to afford the loan. She had only around £35 remaining each month.

It follows I think TPF was wrong to lend to Mrs C.

I haven't found any evidence TPF acted unfairly towards Mrs C in some other way. Mrs C has said it ignored the fact she was already in a debt management plan. But from some reason this was not shown on the credit checks TPF carried out and I can only fairly expect it to respond to the results that were returned to it by the credit reference agency(ies).

Putting things right

Mrs C should repay the capital as she has had the benefit of that money. But she has paid interest and charges on a loan that should not have been given to her.

So TPF should:

- Remove all interest and charges from Mrs C's loan account and treat all repayments she has made as repayments of the capital.

- If reworking Mrs C's loan account results in her having effectively made payments above the original capital borrowed, then TPF 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*.

- If reworking Mrs C's loan account leaves a capital balance outstanding TPF should try to agree an affordable repayment plan with Mrs C remembering its obligation to treat her fairly, and with forbearance if relevant.

- Remove any adverse information recorded on Mrs C's credit file in relation to the loan once any outstanding capital balance has been repaid.

*HM Revenue & Customs requires TPF to deduct tax from this interest. TPF should give Mrs C a certificate showing how much tax it's deducted if she asks for one.

My final decision

I am upholding Mrs C's complaint. Tesco Personal Finance PLC must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 17 October 2023.

Rebecca Connelley
Ombudsman