

## The complaint

Mr M complains Savvy Loan Products Limited trading as Tick Tock Loans (“Tick Tock”) gave him loans without carrying out sufficient affordability checks.

## What happened

A summary of Mr M’s borrowing can be found in the table below.

loan number	loan amount	agreement date	repayment date	number of monthly instalments	highest repayment per loan
1	£500.00	05/03/2022	21/06/2022	6	£162.05
2	£300.00	08/10/2022	02/01/2023	3	£149.64

Following Mr M’s complaint, Tick Tock considered concluded it had made a reasonable decision to lend and so it didn’t uphold it. However, it did make an offer to remove the loans from Mr M’s credit file and pay Mr M £55 on the provision that he withdrew the complaint. Unhappy with this response, Mr M referred his complaint to the Financial Ombudsman.

The complaint was considered by an investigator, who upheld the complaint about loan 1 only. The investigator concluded that based on what Mr M declared as well as the information Tick Tock gathered from its credit check as well as taking into account the loan repayment, Mr M was left with an insufficient amount of money to cover any unexpected expenditure. She concluded Mr M couldn’t repay this loan in a sustainable manner.

There was then a small break between loans 1 and 2, and Mr M appeared to have a change in circumstances because he didn’t have as much debt and was earning more. Loan 2 was also for a smaller sum and based on proportionate checks the investigator thought this loan was affordable.

Neither Mr M nor Tick Tock agreed with the outcome that the investigator had reached. Mr M didn’t agree with the investigator’s decision to not uphold loan 2. He said that he was a gambler and had used a lump sum he had received from his employer to repay some of this debt and by the time of loan 2 he had taken a number of loans from other credit providers.

Tick Tock didn’t agree with the assessment to uphold loan 1. It explained the “*affordability ratios*” provided by the credit reference agency were “*positive*” and within the lending limits. The credit check indicated responsible borrowing from Mr M. Finally, Mr M had showed that he had reduced a significant portion of his debt – after loan 1 was approved.

As no agreement could be reached, the case has been passed to me for a decision.

## 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 this type of lending - including all the relevant rules, guidance and good industry practice - on our website.

Tick Tock had to assess the lending to check if Mr M could afford to pay back the amounts he'd borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. Tick Tock's checks could have taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mr M's income and expenditure.

With this in mind, I think in the early stages of a lending relationship, less thorough checks might have been proportionate. But certain factors might suggest Tick Tock should have done more to establish that any lending was sustainable for Mr M. These factors include:

- Mr M having a low income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- The amounts to be repaid being especially high (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- Mr M having a large number of loans and/or having these loans over a long period of time (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable);
- Mr M coming back for loans shortly after previous borrowing had been repaid (also suggestive of the borrowing becoming unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable for Mr M. The investigator didn't consider it reached the point in the lending relationship where this applied and I agree, as there were only 2 loans.

Tick Tock was required to establish whether Mr M could *sustainably* repay the loans – not just whether he technically had enough money to make his repayments. Having enough money to make the repayments could of course be an indicator that Mr M was able to repay his loans sustainably. But it doesn't automatically follow that this is the case.

If a lender realises, or ought reasonably to have realised, that a borrower won't be able to make their repayments without borrowing further, then it follows that it should conclude those repayments are unsustainable.

I've considered all the arguments, evidence and information provided in this context, and thought about what this means for Mr M's complaint.

## **Loan 1**

Before this loan was approved, Tick Tock asked Mr M for details of his income, which he declared as being £3,200 per month. Tick Tock says the declared income figures were checked through a credit reference agency.

Mr M also declared monthly outgoings of £432. As part of the application, Tick Tock used "*national averages*" to assess what Mr M had declared. As a result, Tick Tock calculated Mr M's monthly expenditure to be around £2,252.28 – this included what Tick Tock calls a safety buffer of around £182. After carrying out these checks, Mr M appeared to have sufficient disposable income to be able to afford the loan repayments.

Before the loan was approved Tick Tock carried out a credit search and it has provided a copy of the results it received from the credit reference agency. It is worth saying here that

although Tick Tock carried out a credit search, there isn't a regulatory requirement to do one, let alone one to a specific standard. But what Tick Tock couldn't do is carry out a credit search and then not react to the information it received – if necessary.

Mr M didn't have any defaulted accounts with the three years preceding the loan and neither did he have any County Court Judgements recorded against him. And so this may have indicated that Mr M was able to afford this loan.

However, Tick Tock was on notice that perhaps Mr M may have had difficulties managing his money given he had opened 9 new credit facilities within the previous 6 months – on average more than one per month. Tick Tock also ought to have been aware that the amount it used as part of its affordability assessment (£768 for the credit commitments) wasn't accurate. Given his income it was likely, this loan wasn't affordable nor sustainable.

Mr M had 6 active loans, credit cards, overdrafts and a hire purchase agreement (HP). The loan and HP agreements were costing Mr M £1,515 to service per month. On top of this he had a mobile phone contract of £21 per month and total credit card debt of £5,037 which was likely costing at least £150 - £200 per month and he also had an overdraft – owing £7,230. Although the overdraft doesn't have a set repayment term – this was still a debt that was owed. I think it's likely, that Mr M's total credit commitments each month was at least £1,700 and possibly more.

Tick Tock was therefore on notice that firstly, Mr M had to spend over 50% of his declared income on servicing existing credit commitments – which in my view isn't an insignificant amount and actually in my view does likely to point towards Mr M having existing problems managing his money. Especially, as Mr M had settled six payday loan accounts within the six months before he applied for loan 1.

Secondly, It isn't clear to me how Tick Tock arrived at the monthly credit commitment figure of £768 given the credit check results it received. But with monthly credit commitments of at least £1,700, plus the other costs Tick Tock used of £1,302 this comes to around £3,000 per month. Of course, this also ignores the additional buffer of around £188 which Tick Tock used for its affordability assessment.

But even ignoring the extra buffer applied, after the loan repayment Mr M was left with around £40 each month for the next six months. In my view, that amount is far too low to cover any other costs but also, isn't enough considering the amount of outstanding credit commitments Mr M already had and which Tick Tock was aware of.

I am therefore upholding Mr M's loan because the checks Tick Tock carried out showed that Mr M wouldn't be able to afford his repayments in a sustainable manner.

## **Loan 2**

Tick Tock carried out the same sort of checks before this loan was approved, as it had done so for loan 1. This time Mr M declared monthly income of £5,000 but following further checks which looks to have involved reviewing a payslip (a copy of which hasn't been provided) Tick Tock used a monthly income figure of £3,722. This was a reasonable course of action.

Mr M also declared monthly outgoings of £1,300. Once again, Tick Tock used national averages and for its affordability assessment and this time it decided it needed to use a monthly outgoing figure of around £1,952. The loan looked more than affordable especially because Mr M had borrowed a smaller sum than he had before and there had been a small gap of nearly four months between Mr M repaying loan 1 and taking loan 2.

Tick Tock has also provided the credit check results that it received from the credit reference agency. This time Tick Tock knew that Mr M's overall debt had significantly reduced. In response to the investigator's assessment, Mr M explained how he was able to do that – with a lump sum payment he had received from his employer. Tick Tock didn't know this at the time, and given it was only the second loan I think it was entirely reasonable for it to have relied on the information it was given, which suggested from the credit check results that Mr M's overall financial position was improving.

I appreciate that Mr M said he had recently taken out a number of loans from a number of other credit providers, but this wasn't reflected in the information Tick Tock received – it was told that Mr M had opened 2 accounts within the last 6 months. Which was a significant decrease since loan 1, and perhaps does, given the small break in lending suggest that Mr M's financial position had on the face of it improved.

I'm satisfied that the credit check results wouldn't have raised any concerns for Tick Tock. This time there were fewer active accounts, and only three outstanding loans, with one of those being a bank loan. These loans were costing Mr M around £537 per month to service, and on top of that there one mail order account with a zero balance, 1 credit card and 2 overdrafts.

However, there wasn't anything contained within the credit check results that would've suggested either Mr M was having financial problems or wouldn't be able to make the loan repayment.

The credit checks wouldn't have raised any concerns and there wasn't anything else that ought to have prompted Tick Tock to have either carried out further checks or to have declined Mr M's application for credit. As such, this also means that Tick Tock wouldn't have discovered Mr M's gambling.

There also isn't anything else in what I've seen in the information that Tick Tock collected, to suggest that it ought to have reasonably known that Mr M was gambling. And as Tick Tock wasn't aware of Mr M's gambling, I can't say that in the circumstances of this complaint that Tick Tock did anything wrong.

Taking account of the lending relationship I think it was reasonable for Tick Tock to have relied on the information Mr M provided to it and the results of its own checks. There also wasn't anything to suggest that Mr M was having either current financial difficulties or to indicate the loan repayment would be unsustainable for him. I am therefore not upholding Mr M's complaint about loan 2.

I have upheld loan 1, and I've outlined below what Tick Tock needs to do in order to put things right for Mr M.

### **Putting things right**

In deciding what redress Tick Tock should fairly pay in this case I've thought about what might have happened had it not lent loan 1 to Mr M, as I'm satisfied it ought to have. Clearly there are a great many possible, and all hypothetical, answers to that question.

For example, having been declined this lending Mr M may have simply left matters there, not attempting to obtain the funds from elsewhere. If this wasn't a viable option, they may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, they may have decided to approach a third-party lender with the same application, or indeed a different application (i.e. for more or less borrowing). But even if they had done

that, the information that would have been available to such a lender and how they would (or ought to have) treated an application which may or may not have been the same is impossible to now accurately reconstruct. From what I've seen in this case, I certainly don't think I can fairly conclude there was a real and substantial chance that a new lender would have been able to lend to Mr M in a compliant way at this time.

Having thought about all of these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Mr M would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce Tick Tock's liability in this case for what I'm satisfied it has done wrong and should put right.

Tick Tock shouldn't have given Mr M loan 1.

- A. Tick Tock should add together the total of the repayments made by Mr M towards interest, fees and charges on loan 1.
- B. Tick Tock should calculate 8% simple interest\* on the individual payments made by Mr M which were considered as part of "A", calculated from the date Mr M originally made the payments, to the date the complaint is settled.
- C. Tick Tock should pay Mr M the value of "A" plus "B".
- D. Tick Tock should remove any adverse information recorded on Mr M's credit file in relation to loan 1.

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

### **My final decision**

For the reasons I've outlined above, I am upholding Mr M's complaint in part.

Savvy Loan Products Limited trading as Tick Tock Loans should put things right for Mr M as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 2 February 2024.

Robert Walker  
**Ombudsman**