

## **complaint**

Mr H complains that Total Home Loans Direct Limited, trading as THL Direct, gave him loans he couldn't afford to repay.

## **background**

Mr H took out ten loans with THL Direct between September 2014 and October 2016. His first two loans were payday loans repayable within a month. Loans 3 and 4 were repayable over 18 months and the remaining loans were repayable over 3 months. Mr H has repaid all of his borrowing but he explains he was trapped in a debt cycle for many years causing him significant problems.

In its final response letter to Mr H, THL Direct said it didn't think it was wrong to lend to Mr H and it had undertaken appropriate and proportionate checks. Mr H wasn't happy with the response and brought his complaint to this service.

Our adjudicator thought that THL Direct shouldn't have given Mr H loans four to ten because it hadn't properly checked Mr H's financial position. He recommended that THL Direct pay Mr H some compensation. THL Direct didn't agree with that view and so the complaint has been passed to me, an ombudsman, to decide.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Before agreeing to lend to Mr H, THL Direct had to check each time that he could afford to make the repayments. The checks it did had to be proportionate. What's proportionate depends on things like the size of the loan repayments and the information it had about Mr H. There's no set list of the checks a lender should carry out.

I agree with the adjudicator that THL Direct carried out proportionate checks before loans one to three. It appears that before loan one, THL Direct carried out a credit check and asked Mr H about his normal monthly income and outgoings.

Mr H declared that he was earning £3300 and his outgoings were £1412.50 for loans one and two and £1925 for loan three. On the basis of Mr H's declared income and outgoings and given the amount of the repayments relative to Mr H's disposable income I think it was reasonable for THL Direct to give Mr H these loans without any more checking.

By the point of loan four I think a clear pattern of borrowing was beginning to emerge. Mr H had borrowed in successive months and for increasing amounts. By this point I think THL Direct should've started to become concerned that Mr H wasn't using short term credit as a temporary measure and he may have been reliant on this sort of borrowing. I think in those circumstances, for loan four and all later loans proportionate checks should have established a much fuller picture of Mr H's financial position. I think proportionate checks here would have meant that THL Direct took steps to verify and carry out a full review of Mr H's financial position.

But although I don't think THL Direct carried out proportionate checks before loans four to ten, that's not the end of the matter, as I need to consider what THL Direct would have seen

and concluded if it had done so. Mr H has provided us with evidence of his financial circumstances at the time he applied for the loans in the form of his bank statements.

I've said that before loan four onwards, proportionate checks would've meant that THL Direct took steps to carry out a full review of Mr H's financial position. I think if it had done that, it would have seen that Mr H spent considerable amounts on gambling transactions and had substantial borrowing from other short-term lenders. For example, before loan four, Mr H owed money to other short-term lenders and the repayments were over £2,000. His position didn't improve for the remainder of the time he borrowed from THL Direct. Proportionate checks would have shown that Mr H couldn't afford to repay further borrowing. So, I don't think THL Direct should have given Mr H loans four to ten.

Mr H has had the benefit of the money so I think it is only fair he pays it back. But I don't think that he should have to pay any interest or charges on the loans.

### **my final decision**

I uphold this complaint. To put things right, I require Total Home Loans Direct Limited, trading as THL Direct:

1. To refund to Mr H all interest and charges he's paid on loans four to ten inclusive, plus pay simple interest at the rate of 8% a year\*, from the date each sum was paid until the date of settlement;
2. To remove any negative information about the refunded loans from Mr H's credit file.

\* HM Revenue & Customs requires Total Home Loans Direct Limited to take off tax from this interest. It must give Mr H a certificate showing how much tax it's taken off, if he asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 25 October 2018.

Emma Boothroyd  
**ombudsman**