

## complaint

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

## background

Mr B took out the following instalment loans with THL Direct:

	date	£ amount borrowed
1	10 March 2016	200
2	10 May 2016	350
3	28 June 2016	400
4	27 September 2016	400
5	29 December 2016	450
6	13 February 2017	450
7	10 April 2017	500
8	26 June 2017	500

Each of the loans was repayable in three, monthly instalments. There's an outstanding balance on loan eight.

In its final response letter to Mr B, THL Direct said it collected Mr B's bank statements and pay slips and carried out credit searches. It didn't think it was wrong to lend to Mr B but it offered to write off the outstanding balance of loan eight, as a gesture of goodwill. Mr B didn't accept that offer.

Our adjudicator thought that THL Direct shouldn't have given Mr B loans five, six, seven and eight. She set out what it should do to put that right.

THL Direct accepted the adjudicator's view but Mr B didn't. He said, in summary:

- THL Direct didn't review his bank statements.
- It should refund interest on loans two to eight.
- Each loan followed immediately after repayment of the previous loan, which showed he was reliant on them.
- The amounts of the loans steadily increased.
- Further checks would have shown that he couldn't afford to repay these loans.
- His loan commitments were much higher than the adjudicator indicated.
- THL Direct never asked him to confirm his outgoings by providing a copy of his bank statements.
- The adjudicator mentioned his spending on gambling in relation to loans five to eight but that was equally relevant to loans two to four.
- Loans two to eight were unaffordable at the outset. .

## 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 B, 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 B. There's no set list of the checks a lender should carry out.

I don't think that THL Direct carried out proportionate checks before any of the loans it gave to Mr B. Based on what it's provided, it appears that before loan one, THL Direct carried out a credit check. I think before loans one and two proportionate checks would have included asking Mr B about his normal monthly income and I can't see that it did that.

Because of the pattern of borrowing that was beginning to emerge, I think proportionate checks before loans three and four would have included asking Mr B about not only his normal monthly income but also his normal monthly living costs and regular financial commitments. THL Direct didn't do that. It appears that it didn't carry out any checks before loan three and simply did another credit check before loan four. I don't think that was proportionate.

By loan five, Mr B's reliance on short-term borrowing was established. He'd been borrowing from THL Direct almost continually for over nine months and the amounts he asked to borrow were increasing. I think in those circumstances, proportionate checks are likely to have established a much fuller picture of Mr B's financial position. I think proportionate checks here would have meant that THL Direct took steps to carry out a full review of Mr B's financial position.

From loan five onwards, THL Direct verified Mr B's income by looking at his payslips or bank statements but I don't think that went far enough. There's nothing to suggest that THL Direct went further than verifying Mr B's income by, for example, establishing Mr B's normal monthly living costs, regular financial commitments or other short-term financial commitments. I agree with Mr B that THL Direct didn't look at his bank statements in order to verify his financial position generally.

So, I don't think THL Direct carried out proportionate checks before any of the loans it gave to Mr B. 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. I can't say for sure what it would've found out. Mr B has provided us with evidence of his financial circumstances at the time he applied for the loans. So I've been able to get a picture of what his financial circumstances were like. Of course, I accept that this isn't perfect, as different checks show different things. And just because something shows up in the information Mr B has now provided, it doesn't mean that it would've shown up in any checks that THL Direct might've carried out. But the information Mr B has provided is the best indication I have of what his financial circumstances were at the relevant time. In the absence of anything else, I think it's reasonable to rely on it.

I've said that before loans one and two, proportionate checks would have meant asking Mr B about his normal monthly income. Mr B's net monthly income was in the region of £3,880. The highest monthly repayment for loan one was around £107 and for loan two was £184. I think if THL Direct had carried out proportionate checks before loans one and two, it would have concluded that Mr B could afford the repayments, so I don't think it was wrong to give him those loans.

I've said that before loans three and four, proportionate checks would have included asking Mr B about not only his normal monthly income but also his normal monthly living costs and regular financial commitments. At this stage, THL Direct wasn't required to verify what Mr B said, so it wasn't obliged to ask to see his bank statements. Based on what I've seen, I agree with the adjudicator's analysis that proportionate checks before loans three and four would have led THL Direct to conclude that Mr B had enough disposable income to repay the instalments for these two loans. I appreciate that Mr B had other short-term loans and was spending significant amounts on gambling but I don't think THL Direct would have discovered that at this stage.

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

I appreciate that Mr B says that he couldn't afford to repay loans two to eight. I'm afraid that, in itself, isn't sufficient to say that THL Direct should refund interest and charges on all those loans. As I've set out above, what's proportionate by way of checks before lending varies according to the circumstances. Here, THL Direct wasn't required to carry out a full review of Mr B's finances until loan five. So, proportionate checks wouldn't have revealed Mr B's true financial position at the time of loans two, three and four. Mr B's other borrowing and his gambling would not have been apparent to THL Direct until loan five.

Considering everything, I don't think THL Direct has shown its checks for any of the loans it gave to Mr B were sufficient or proportionate. If it had carried out proportionate checks, I think it would have seen that loans five, six, seven and eight were unaffordable. On balance, I don't think it should have given Mr B those loans.

Overall, I think the adjudicator's proposed resolution of this complaint is fair and reasonable. I agree with the adjudicator's conclusions and don't see any compelling reason to change the proposed outcome in this case.

### **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 B all interest and charges he's paid on loans five, six, seven and eight, 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 write off any unpaid interest and charges on loan eight;
3. To use this refund to reduce the capital owing on the outstanding loan and pay any balance to Mr B; and
4. To remove any negative information about loans five, six, seven and eight from Mr B's credit file.

\* HM Revenue & Customs requires Total Home Loans Direct Limited to take off tax from this interest. It must give Mr B 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 B to accept or reject my decision before 24 June 2018.

Louise Povey  
**ombudsman**