

## **complaint**

Mr M complains that TFS Loans Limited irresponsibly lent to him. He says better checks by TFS would have shown he was unable to afford the loan.

## **background**

Mr M took out one loan with TFS on 27 October 2016. The loan was for £3,000 and was due to repaid in 24 monthly instalments of £184.38. Mr M fully repaid the loan in October 2018 in line with the loan agreement.

Mr M complained to TFS saying it lent to him when he couldn't afford it and had it taken its checks further it would have found that Mr M couldn't afford the loan. TFS didn't uphold Mr M's complaint, it said that it took sufficient steps to check that the loan was affordable for Mr M and based on those checks, it didn't lend irresponsibly.

Unhappy with the response, Mr M referred his complaint to this service where it was looked at by one of our adjudicator's. Our adjudicator thought that TFS should have taken its checks further before lending to Mr M and had it done so, it's likely to have found that he couldn't afford the loan, and so she recommended that the complaint should be upheld.

As TFS disagreed, 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. I've also taken into account the law, any relevant regulatory rules and good industry practice at the time the loans were offered.

Before lending money to a consumer, a lender should take proportionate steps to understand whether the consumer will be able to repay what they're borrowing without borrowing further and without it adversely impacting on their financial situation.

A lender should gather enough information for it to be able to make an informed decision on the lending. Although the guidance and rules themselves didn't set out compulsory checks, they did list a number of things a lender could take into account before agreeing to lend. The key thing was that any checks needed to be proportionate and had to take into account a number of different things, including things such as how much was being lent and when what was being borrowed was due to be repaid.

TFS says it searched Mr M's credit file and has provided results of its search. From what I can see Mr M had about seven defaults recorded on his file within the last six years. The file also showed that Mr M has a home credit account which he was paying £121 towards. TFS also asked Mr M about his income and it saw a payslip from Mr M. Mr M declared his income as £2,259.55 and TFS says it worked out the income it used for Mr M's loan by working out the year to date amount, less tax and national insurance divided by the number of payments received in the tax year. Although TFS hasn't told us what exact income amount it used.

Mr M declared that he had dependents and his living costs were as follows; housing costs - £750, council tax - £104, Electricity - £100, phone - £80, clothing - £50, home credit £121,

childcare - £403. Based on this TFS worked out that Mr M had a disposable income of £321.17 after repaying the loan.

I think that given the length of the commitment of this loan and the adverse information TFS saw on Mr M's credit file, it should have taken its checks further to try to understand more about Mr M's expenses and verifying some of the information he'd provided around this. I appreciate TFS' point that it questioned Mr M about some of his expenses but just like it verified his income by requesting payslips, it should have been looking to verify some of his declared expenses too and gain a clear picture of Mr M's actual financial circumstances.

Mr M has provided a copy of his bank statement from the time of the loan which I've used to understand his financial circumstances when the loan was approved. From what I can see, Mr M's income was around £2,056. The regular expense I can make out were around £770. I can also see that he was making monthly repayments to another high cost credit provider of £185.45 per month and was regularly paying overdraft charges of around £36. Mr M would also have had other living costs like transport, utility and clothing.

Mr M's bank statement also show that Mr M spent around £580 on gambling transactions. This is more that 25% of his income and represents a significant portion of his income. I think that had TFS taken its checks further it's likely to have found that Mr M couldn't repay this loan without suffering an adverse effect in his finances and in those circumstances, it shouldn't have lent to him and it needs to put things right.

### **Putting things right – what TFS needs to do**

To put things right for Mr M, TFS should:

- refund all interest and charges applied to all the loan.
- add interest at 8% per year simple on the above from the date they were paid, if they were, to the date of settlement†;
- remove any adverse information recorded on Mr M's credit file as a result of these loans.

†HM Revenue & Customs requires TFS to take off tax from this interest. TFS must give Mr M a certificate showing how much tax it's taken off if he asks for one.

### **my final decision**

For the reasons given above, I uphold Mr M's complaint and require TFS Loans Limited to put things right as 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 5 April 2021.

Oyetola Oduola  
**ombudsman**