

The complaint

Miss F complains that TM Advances Limited was irresponsible to lend to her.

What happened

Miss F had one loan from TM Advances in June 2021 as follows:

<u>Loan</u>	<u>Date</u>	<u>Amount</u>	<u>Term</u>	<u>Monthly Repayment</u>	<u>Due</u>
1	22 Mar 2021	£1,500	30m	£159	23 Sep 2023

Miss F says that, at the time of the lending, she was struggling to pay priority bills and had a very poor credit history. She says she'd maximised her borrowing on her credit cards and overdraft and the loan repayments caused her to have to borrow again. She says TM Advances was not helpful when she told it she was in financial difficulties, and it's affected her health and wellbeing.

Our investigator recommended the complaint should be upheld. She considered TM Advances carried out proportionate checks, but that the available information indicated the repayments were likely to be unsustainable to Miss F. She recommended that interest should be refunded on the loan, with 8% added, and that any negative information should be removed from Miss F's credit file.

TM Advances responded to say, in summary, that Miss F had a large amount of disposable income, her account showed no returned direct debits, and she was within her overdraft limit.

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.

I need to take into account the relevant rules, guidance and good industry practice.

Bearing this in mind, in coming to a decision on Miss F's case, I have considered the following questions:

- Did TM Advances complete reasonable and proportionate checks when assessing Miss F's loan application to satisfy itself that she would be able to repay the loan in a sustainable way?
 - If not, what would reasonable and proportionate checks have shown?
- Did TM Advances make a fair lending decision?

- Did TM Advances act unfairly or unreasonably in some other way?

When Miss F applied for the loan, I've seen evidence to show TM Advances asked about her financial circumstances, checked her credit file and verified her income. I can also see that TM Advances had access to Miss F's bank account, so I'm satisfied it completed reasonable and proportionate checks.

However, I don't consider TM Advances made a reasonable lending decision when it approved Miss F's loan application. I say that because:

- The loan was for a period of 30 months and TM Advances needed to ensure the repayments were sustainable over that period;
- Although Miss F's credit check showed no adverse information, I can see from the bank statements provided by TM Advances that she took out seven short-term loans totalling £2,845 in the two months before the loan – four of these loans were in March 2021, with two being the day before the TM Advances loan;
- Based on Miss F's income and regular expenditure, I find she had insufficient disposable income to make the repayments:
 - She had verified income, including benefits, of £4,500 per month and regular payments of rent (£2,300), car loan (£452) and tax (£200);
 - Council tax and utilities were about £450 with TV and phone costs of around £150;
 - Insurance and other credit costs were £220 with a further £300 spend on childcare;
- This gave Miss F a disposable income of around £430, but I can see she also spent roughly £600 on food and travel each month.
- Although I acknowledge TM Advances says there were no returned payments on her bank account, I can see a number of payments that were re-credited the same day and subsequently paid a few days later.

I accept that Miss F told TM Advances that her partner contributed £1,500 per month in cash, but, with the exception of one cash deposit of £235 in January 2021, I have seen no evidence that money contributed to the regular payments Miss F made from her bank account. Miss F also made regular transfers from a savings account, totalling just over £500, in early 2021, but no further transfers were received in the month before the loan.

Miss F told TM Advances the loan was for vet bills and to repay the short-term loans but given she had repaid less than £1,000 of the £2,845 of short-term borrowing, she would still have had significant outstanding debts, especially once the interest due was included.

In summary, I find Miss F was showing clear signs that she was already struggling financially and that it was irresponsible to lend her a further £1,500. Indeed, I note that Miss F began to have repayments returned shortly after taking out the loan and, in May 2021, she used her credit card facility for cash advances.

So, based on all the evidence, I find TM Advances did not make a fair lending decision for the loan, although I can't see it acted unfairly in any other way.

My final decision

My decision is that I uphold this complaint. TM Advances Limited should:

- Add up the total amount of money Miss F received as a result of having been given the loan. The repayments Miss F made should be deducted from this amount.
 - If this results in Miss F having paid more than she received, then any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement). *
 - If any capital balance remains outstanding, then TM Advances should attempt to arrange an affordable and suitable payment plan with Miss F;
- Remove any negative information recorded on Miss F's credit file regarding the loan.

* HM Revenue & Customs requires TM Advances to take off tax from this interest. TM Advances must give Miss F a certificate showing how much tax it's taken off if she asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or reject my decision before 9 August 2023.

Amanda Williams
Ombudsman