

## **The complaint**

Mr H complains Oplo PL Ltd lent to him irresponsibly.

## **What happened**

Mr H took out a loan with Oplo, then trading under a different name, for £2000 to be repaid over a period of 36 months. The monthly repayment was £83.16, and the total cost of the borrowing was £2,993.76. Shortly afterwards Mr H became unable to make contractual repayments towards his debts and entered into a debt management plan with a third-party organisation.

Mr H brought his complaint to our service after being unable to resolve the matter with Oplo. In summary, he says Oplo should not have lent to him because he had already accrued a large amount of debt which he could not afford to fund a gambling problem. And, had Oplo conducted more thorough checks, his true circumstances would have been revealed and Oplo should have declined the loan.

An investigator at our service upheld Mr H's complaint. In summary they found:

- At the time Mr H applied for the loan, aside from his mortgage, he owed a large amount of debt relative to his income. In addition to other borrowing, he had taken out two personal loans shortly before the Oplo loan - a loan for £1500 in December 2019, and a loan for £9000 in January 2020. And he had also utilized most of the available credit on his credit cards.
- Mr H told Oplo the loan was for home improvements. But given the large amount of debt he had accrued over a short time with different lenders, Oplo should have conducted further checks to independently verify the lending was affordable and sustainable.
- The information on Mr H's credit file signaled he was becoming dependent on borrowing. He was only making minimum repayments on his credit cards and was close to his credit card limits. And he quickly took out further borrowing after repaying previous lending, which indicated a noticeable reliance on credit.
- Had Oplo performed further checks to independently verify Mr H's actual spending and income, it would have come to light that his previous lending was used to fund gambling, and his outgoings were much greater than he had indicated. At this point, it would have been clear to Oplo that it should not have lent to him.
- The lack of missed payments or county court judgements on Mr H's credit file wasn't enough to conclude Mr H could sustainably afford further borrowing. Not enough time had passed to show that he could sustainably repay his existing debt commitments.

Oplo disagreed with the investigator's findings and it asked for a final decision from an ombudsman. As a result, the complaint has been given to me to decide.

## **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 have decided to uphold Mr H's complaint.

Our service's approach to complaints about irresponsible/unaffordable lending is set out on our website, and I have applied it to this complaint. In summary, a lender must ensure lending is affordable, and it needs to take reasonable steps to be satisfied the borrower can make repayments sustainably without having to resort to further borrowing.

The rules which govern lending require a lender to undertake reasonable and proportionate checks based on the individual circumstances of the potential borrower. And, even where reasonable and proportionate checks show a loan looks affordable, a lender should also consider whether a borrower can repay a loan in a sustainable way or if there is another reason why lending would be irresponsible.

Oplo performed an income and expenditure with Mr H which showed a £692.92 surplus. It's already established Mr H hadn't declared the large amount of spending he put towards gambling, and he wasn't being truthful about the purpose of the loan or previous loans, or how he paid off previous credit.

Oplo also performed a credit check and relied on there being no recent missed payments, defaults or county court judgements. It concluded that adding the loan to his overall indebtedness was affordable and sustainable.

I disagree Oplo performed enough reasonable and proportionate checks based on Mr H's circumstances. There are a number of indicators which demonstrate it should not have been satisfied by the checks it did perform:

- Mr H had taken out several loans within a short period of time which committed him to making repayments over a medium term. Consequently, at the time he applied for the loan his overall indebtedness was already very high compared to his annual income and a significant part of that income was put towards repaying unsecured debt.
- Mr H had paid off previous loans only to quickly take out further borrowing with several different lenders. This is a common indicator that someone is or is becoming overly reliant on debt.
- Mr H used up most of the available credit on his credit cards shortly prior to the loan. And he only made minimum repayments on those balances. This indicated that he may have been finding it difficult to make sustainable repayments towards paying off those balances, which wouldn't accord with someone who had a reasonable income surplus.

I disagree the lack of missed payments, recent defaults or CCJs on Mr H's credit file was sufficient to show he could sustainably repay further borrowing. Making minimum

repayments is not a reliable indicator that someone can sustainably repay what they owe over a reasonable period of time. And the lack of missed payments or a CCJ doesn't mean that someone isn't struggling with the amount of debt they already have.

Mr H gave an explanation on why he wanted the loan and what his previous borrowing was for. But I don't find this was enough for Oplo to be satisfied that he could sustainably repay the loan. Instead, given the above factors, I find Oplo ought to have performed further independent checks to verify Mr H's financial situation was what he had told them, given how indebted he had become over a short amount of time.

Had Oplo conducted further checks it would have been clear that Mr H's real financial situation was not what had been presented. It's evident a substantial part of his income was being spent on gambling, and that he was borrowing to fund further gambling. Clearly, once this would have been discovered, as a responsible lender, Oplo should not have agreed to the loan.

### **Putting things right**

Mr H spent the loan funds and considering his circumstances I find he ought to repay the loan capital. But as the loan should not have been given to him, he should not have to pay interest or charges on what he borrowed. So, I direct Oplo to:

- Remove all interest, fees and charges on the loan and treat all the payments Mr H has made as payments towards the capital.
- If reworking Mr H's loan account results in him having effectively made payments above the original capital borrowed, then Oplo should refund these overpayments with 8% simple interest calculated on the overpayments, from the date the overpayments would have arisen, to the date of settlement\*.
- Remove any adverse information recorded on Mr H's credit file in relation to the loan.

\*HM Revenue & Customs requires Oplo to deduct tax from this interest. Oplo should give Mr H a certificate showing how much tax it's deducted, if he asks for one.

### **My final decision**

I have decided to uphold Mr H's complaint and I direct Oplo PL Ltd to put things right in accordance with my instructions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 2 February 2022.

Liam King  
**Ombudsman**