

The complaint

Mr S complains that Oplo PL Ltd (when it was trading as 1st Stop Personal Loans Limited) irresponsibly provided him with an unaffordable loan. (To keep things simpler, I'll refer to the lender as '1st Stop').

What happened

1st Stop provided Mr S with a loan as follows:

Date taken	Amount	Term	Monthly repayment	Total Amount Repayable	Loan status
5/4/2019	£10,000	60 Months	£278.67	£16,720.20	Still running

Mr S complained that if 1st Stop had done more investigation it wouldn't have lent to him as it should have seen that the loan wasn't sustainably affordable for him.

When Mr S complained to 1st Stop it said it had conducted a full income and expenditure assessment with Mr S and carried out creditworthiness checks. It was satisfied that there were no signs of financial difficulty and bearing in mind the loan purpose was to consolidate other debt, the repayments were affordable and sustainable for Mr S.

So 1st Stop didn't uphold his complaint and this led to Mr S bringing his complaint to us.

Our adjudicator didn't think that 1st Stop should've provided the loan and upheld Mr S's complaint. He set out the steps 1st Stop needed to take to put things right.

1st Stop disagreed with our adjudicator and asked for the complaint to be reviewed by an ombudsman. 1st Stop mainly said that it cannot be held responsible for Mr S not using the surplus funds to reduce his indebtedness in line with the stated loan purpose.

It said Mr S's credit record showed he was in a manageable, stable financial situation and that 1st Stop had worked out affordability fairly and the loan was affordable on the basis of the information it had gathered. The complaint comes to me to make a final decision.

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.

We've set out our approach to unaffordable/irresponsible lending complaints on our website and I've kept this in mind while deciding this complaint. And having looked at the complaint afresh, I've come to the same overall outcome as our adjudicator. I'll explain why I say this.

There are some general principles I will keep in mind and questions I need to think about when deciding whether to uphold Mr S's complaint.

Before agreeing to lend, lenders must work out if a borrower can afford the loan repayments alongside other reasonable expenses the borrower also has to pay.

This should include more than just checking that the loan payments look affordable on a strict pounds and pence calculation. A lender must take reasonable steps to satisfy itself that the borrower can sustainably repay the loan – in other words, without needing to borrow elsewhere.

The rules don't say what a lender should look at before agreeing to lend. But reasonable and proportionate checks should be carried out. For example, when thinking about what a borrower has left to spend on a new loan after paying other expenses, as well as taking into account the loan amount, the cost of the repayments and how long the loan is for, a proportionate check might mean a lender should also find out the borrower's credit history and/or take further steps to verify the borrower's overall financial situation.

If reasonable and proportionate checks weren't carried out, I need to consider if a loan would've been approved if the checks had been done. If proportionate checks were done and a loan looked affordable, a lender still needed to think about whether there was any other reason why it would be irresponsible or unfair to lend.

For example, if the lender should've realised that the loan was likely to lead to more money problems for a borrower who is already struggling with debt that can't be repaid in a sustainable way.

I've kept all of this in mind when thinking about Mr S's complaint.

1st Stop asked Mr S about his income and expenditure and also did its own credit checks to see how much Mr S was already paying towards servicing his existing debt and gain an understanding of his credit history.

There is disagreement between 1st Stop and our adjudicator about whether 1st Stop's checks were reasonable and proportionate in the particular circumstances of this loan application. But, I don't need to make any findings on this point as it doesn't affect the outcome of this complaint. And like the adjudicator, I don't think 1st Stop made a fair lending decision when it lent to Mr S based on the information it had gathered.

I say this because I don't think 1st Stop thought carefully enough about what all the information it had gathered showed about Mr S's overall financial situation.

1st Stop recorded a figure of around £1,550 for Mr S's monthly earnings and took into account that he received a payment of £82.80 into his bank account each month.

After allowing for an amount of £810 in respect of his mortgage and normal monthly living costs and taking into account his debt consolidation plans, 1st Stop said this meant Mr S should still have had around £271 still available to spend *after* paying its loan.

I've taken into account that 1st Stop says it was up to Mr S to use the loan to complete his planned debt consolidation after it paid his two large credit cards directly.

But in any event, 1st Stop was aware that Mr S would still be paying £272 per month towards credit that was never part of the debt consolidation plans he discussed with 1st Stop alongside having to make the monthly repayments on his 1st Stop loan. And whilst 1st Stop

has said it accounted for this, I don't think it properly considered how this impacted on the likelihood of the loan being sustainably affordable for Mr S over the whole loan term. On these figures alone, 1st Stop was aware (and has agreed) this would mean Mr S would be spending more than £550 each month servicing this debt alone – which was at least a third of his disposable income.

I think our adjudicator was right to point out that this would be such a significant proportion of Mr S's monthly income that 1st Stop ought to have realised it was unlikely that Mr S would be able to sustainably repay his loan over the five year term. And, in these circumstances, 1st Stop should reasonably have concluded that it was not fair to lend to Mr S.

I've thought carefully about everything 1st Stop has said in response to our adjudicator's view. But 1st Stop was aware from its credit checks and discussions with Mr S that his total outstanding credit balance on unsecured loans and credit cards was around £17,508. So, (even if the loan 1st Stop provided had been used entirely for debt consolidation purposes), I don't think 1st Stop was able to safely say this would've improved Mr S's overall position sufficiently to achieve a significant and sustainable improvement in his financial situation.

I think the scale of Mr S's debts, compared to the much smaller value of the loan, would suggest that he would inevitably remain extensively indebted. And if the total costs of servicing all his debt were properly taken into account I think 1st Stop should have realised that, in reality, making the monthly repayments for this loan would be beyond Mr S's means.

I don't agree with 1st Stop's conclusion that Mr S's repayment record on this loan means that it has been and continues to be sustainably affordable. For all the reasons above, I think 1st Stop ought reasonably to have been aware that taking further, costly lending was unlikely to help Mr S and more likely to potentially increase his indebtedness over the longer term.

So, I am upholding Mr S's complaint that he should not have been given this loan.

As Mr S has been further indebted with a high amount of interest and charges on a loan that he shouldn't have been provided with, I'm satisfied that he has lost out as a result of what 1st Stop did wrong. So, I think 1st Stop needs to put things right.

I am sorry that Mr S has had a problem with debt. If he would like help to manage his finances, there's more information about how to get free debt advice and other support on our website – or we can provide contact details if he gives us a call.

Putting things right

I think it is fair and reasonable for Mr S to repay the principal amount that he borrowed, because he had the benefit of that lending.

But he has been charged extra for a loan that should not have been provided to him. In line with this Service's approach, Mr S shouldn't repay more than the capital amount he borrowed.

If 1st Stop has sold any outstanding debt it should buy this back if able to do so and then take the following steps. Otherwise, 1st Stop should liaise with the new debt owner to achieve the results outlined below and do the following:

- add up the total amount of money Mr S received as a result of having been given the loan. The repayments Mr S made should be deducted from this amount.
- If this results in Mr S having paid more than he 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 1st Stop should attempt to arrange an affordable/suitable payment plan with Mr S keeping in mind the need to treat him positively and sympathetically in those discussions.
- Remove any negative information recorded on Mr S's credit file regarding the loan.

*HM Revenue & Customs requires 1st Stop to deduct tax from this interest. 1st Stop should give Mr S a certificate showing how much tax has been deducted if he asks for one.

My final decision

I uphold this complaint and direct Oplo PL Ltd (formerly trading as 1st Stop Personal Loans Limited) to take the steps set out above to put things right for Mr S.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 26 October 2021.

Susan Webb
Ombudsman