

The complaint

Ms P complains that Oplo CF Ltd (“Oplo”) irresponsibly granted her a loan that she couldn’t afford.

What happened

In November 2015, Ms P acquired a car and financed it through a hire purchase agreement. Oplo completed the underwriting process. Ms P was required to make monthly payments of £262.37 with a final payment of £387.49 if she wanted to own the car at the end. The agreement was to last for 48 months and the total repayable under the agreement was £12,718.88. The loan was settled in October 2019.

Ms P says that Oplo didn’t complete adequate affordability checks. She says if it had, it would have seen the agreement wasn’t affordable. Oplo didn’t agree. It said that it carried out a thorough assessment. It verified Ms P’s income through payslips and reviewed her credit file. It noted that the monthly instalment on this new agreement was less than 20% of Ms P’s income and explained that this meant her application passed their lending criteria. They didn’t think there was therefore evidence the loan wasn’t affordable.

Our **adjudicator** recommended the complaint be upheld. She thought Oplo ought to have realised the agreement wasn’t affordable for Ms P.

Oplo didn’t agree and said Ms P met their lending criteria in place at the time and that supporting bank statements were not required. It explained that the credit file indicated a more recent stable financial position and was deemed to be acceptable and within risk. Sustainability was proven and Ms P had chosen to retain the vehicle and maintain her repayments rather than exercise her termination rights under the agreement.

The case has been passed to me for 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.

Oplo will be familiar with all the rules, regulations, and good industry practice we consider when looking at a complaint concerning unaffordable and irresponsible lending. So, I don’t consider it necessary to set all of this out in this decision.

The credit check Oplo completed showed an active County Court Judgement and delinquent accounts all within the preceding 12 months. It showed three historic default balances. Payments towards two of them were limited and one of only £45 remained outstanding. I think this ought to have indicated that Ms P was likely to be struggling financially. It therefore would have been proportionate for Oplo to have dug deeper to gain a better understanding of Ms P’s financial circumstances before lending.

I think it would have been proportionate for Oplo to have found out more about Ms P's committed expenditure, such as her living costs. I can't be sure exactly what Oplo would have found out if it had asked. In the absence of anything else, I think it would be reasonable to place significant weight on the information contained in Ms P's bank statements as to what would most likely have been disclosed.

I've reviewed three months of bank statements leading up to the lending decision. These show that Ms P was paying a total of £1,447 towards her committed living expenditure including rent, council tax, gas and electric, internet/broadband, insurances, four debt collection companies, a loan, mobile phone contracts, food, and petrol. Ms P's income was about £1,284 and this demonstrates that she didn't have enough disposable income to afford the additional borrowing.

Oplo disputed the adjudicator's expenditure calculation. It said it wasn't fair to include a one-off insurance cost or a payment to the DVLA and it said some phone charges and a loan hadn't been declared and shouldn't therefore be considered. I'm not persuaded by those arguments. I think the insurance was a necessary expense and I don't expect that by not declaring expenses for her phone, or a small loan, Ms P wasn't incurring those costs. I think the evidence in her bank statements suggest the loan was unaffordable and Oplo therefore didn't act fairly by approving the finance.

Putting things right

As I don't think Oplo ought to have approved the lending, I don't think it's fair for it to be able to charge any interest or charges under the agreement. Ms P should therefore only have to pay the original cash price of the car, being £7,127. Anything Ms P has paid in excess of that amount should be refunded as an overpayment.

To settle Ms P's complaint **Oplo** CF Ltd should do the following:

- Refund any payments Ms P has made in excess of £7,127, representing the original cash price of the car. It should add 8% simple interest per year* from the date of each overpayment to the date of settlement.
- Remove any adverse information recorded on Ms P's credit file regarding the agreement.

*HM Revenue & Customs requires Oplo CF Ltd to take off tax from this interest. Oplo CF Ltd must give Ms P a certificate showing how much tax it's taken off if Ms P asks for one.

My final decision

I uphold this complaint and direct Oplo CF Ltd to put things right in the manner set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 13 January 2022.

Phillip McMahon
Ombudsman