DRN-3122375

The complaint

Miss J complains that Oplo PL Ltd irresponsibly lent to her.

What happened

This complaint is about three high cost credit loans Oplo lent to Miss J. The loan details are as follows:

Loan number	Start date	Loan amount (£)	Term	Repayment amount (£)	End date
1	05/07/2017	2,000	36 months	94.96	13/08/2018
2	13/08/2018	5,000	48 months	202.67	28/10/2019
3	28/10/2019	5,000	60 months	181.84	outstanding

One of our adjudicators looked into Miss J's complaint and thought the loans shouldn't have been given. Oplo disagreed and the complaint was passed to me for a 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 general approach to complaints about high cost lending - including all of the relevant rules, guidance and good industry practice - on our website.

Oplo needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Miss J could repay the loans without getting further into debt or suffering adverse financial consequences. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that Oplo should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the *lower* a consumer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

I think that it is important for me to start by saying that Oplo was required to establish whether Miss J could repay the loans without suffering adverse financial consequences – not just whether the loan payments were affordable on a strict pounds and pence calculation.

I accept that the loan payments being affordable on this basis might be an indication a consumer could make their repayments without an adverse financial impact. But it doesn't automatically follow this is the case. This is because it is expected that the consumer should be able to make repayments on time, throughout the term of the loan, while meeting other reasonable commitments; as well as without having to borrow to meet the repayments. And it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make their repayments sustainably if they're unlikely to be able to make their repayments without borrowing further.

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Miss J's complaint, Oplo has provided evidence to show that before lending any of the loans, it searched Miss J's credit file and took into account her monthly income and expenses.

I think these checks went far enough for loan 1 but I don't think Oplo reacted appropriately to the information it found. The credit file results showed that Miss J was borrowing from at least three other high cost credit lenders at the time. Miss J was also using large portions of her credit card limits, as well as being overdrawn on both her bank accounts.

Miss J's monthly credit commitments, including the repayment of this loan was around £950 and she still had to repay the overdraft debts on her accounts. I think Oplo ought to have been aware that Miss J was likely reliant on credit and that over the 36-month term, she'd struggle to keep up repayments of the loan as she was paying a significant portion of her £2,742 income towards credit.

Miss J was about a third of the term into repaying loan 1 when she borrowed loan 2. Loan 2 was more than double loan 1 and it was also for a longer term. Based on the loan term and the fact that Miss J was returning for a larger loan, I think Oplo should have taken it checks further by independently verifying some of the information Miss J provided through payslips or bank statements for example.

Oplo wasn't required to review bank statements but I think for loans 2 and 3, it needed to show that it took reasonable steps to satisfy itself that Miss J could sustain her loan repayments without further borrowing throughout the term. I don't think it did that.

Miss J has provided copies of her bank statements from around the time and I can see that in the month before loan 2 was granted, Miss J's income was round £2,798 and she received benefits of around £82. The bank statements also show that Miss J gambled over £1,000 in the same month and had at least £650 outstanding to other lenders and was incurring overdraft fees. Proportionate checks would have shown Oplo that Miss J wasn't in a position to sustain the repayments and it shouldn't have lent.

Loan 3 was lent around a year into Miss J's repayment of loan 2 and looking at her bank statements from the time, she continued to gamble and was still repaying at least three other high cost credit lenders. Again, I don't think Oplo should have lent her this loan and it needs to put things right.

Putting things right

- add the total capital amount Miss J received for loans 1 to 3;
- remove all interest and charges applied to the loans;
- treat all payments made by Miss J as capital repayments towards the loans;
- if this results in an overpayment pay interest of 8% simple a year on any overpayments from the date they were paid (if they were) to the date of settlement†;
- if there's still a balance outstanding, Oplo should come to a suitable repayment arrangement with Miss J.
- remove any negative information about the loans from Miss J's credit file.

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

My final decision

For the reasons given above, I'm upholding Miss J's complaint. Oplo PL Ltd should put things right as set out above**.**

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 21 December 2021.

Oyetola Oduola
Ombudsman