

The complaint

Mr G says Oplo PL Ltd (Oplo) irresponsibly lent to him. He says he wasn't properly informed about the contract. He also says that Oplo knew he was having repayment problems with his existing debts and it sold the loan knowing this.

What happened

This complaint is about one loan Oplo provided to Mr G. In January 2016 Mr G borrowed £10,000 from Oplo. He was due to make 60 repayments of £331.82. He would repay a total of £19,909.20. Mr G is still repaying the loan.

Our adjudicator upheld Mr G's complaint. She thought Oplo shouldn't have given Mr G the loan. This was because, even though the loan was for debt consolidation, Mr G would also still be repaying a significant amount to all of his creditors. So, he would be unlikely to be able to afford the repayments.

Oplo disagreed. It said that it made proportionate checks and these showed that the loan was affordable.

As no agreement has reached the complaint has been passed to me, an ombudsman, 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 general approach to complaints about unaffordable/irresponsible lending - including all of the relevant rules, guidance and good industry practice - on our website.

Taking into account the relevant rules, guidance and good industry practice, I think the overarching questions I need to consider in deciding what's fair and reasonable in the circumstances of this complaint are:

- Did Oplo, each time it lent, complete reasonable and proportionate checks to satisfy itself that Mr G would be able to repay in a sustainable way? If not, would those checks have shown that Mr G would've been able to do so?
- Did Oplo act unfairly or unreasonably in some other way?

If I determine that Oplo did not act fairly and reasonably in its dealings with Mr G and that as a result he lost out, I will go on to consider what is fair compensation.

The rules and regulations in place required Oplo to carry out a reasonable and proportionate assessment of Mr G's ability to make the repayments under this agreement. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be “borrower” focused – so Oplo had to think about whether repaying the loan would be sustainable and/or cause significant adverse consequences for Mr G. In practice this meant that business had to ensure that making the payments to the loan wouldn’t cause Mr G undue difficulty or significant adverse consequences.

In other words, it wasn’t enough for Oplo to simply think about the likelihood of it getting its money back, it had to consider the impact of the loan repayments on Mr G. Checks also had to be “proportionate” to the specific circumstances of the loan application.

In general, what constitutes a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the particular circumstances of the consumer (e.g. their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount/type/cost of credit they are seeking. Even for the same customer, a proportionate check could look different for different applications.

In light of this, I think that a reasonable and proportionate check ought generally to have been *more* thorough:

- 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).

I’ve carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mr G’s complaint.

Oplo has provided evidence to show that before lending it asked Mr G about his income and expenditure. It also verified some of the information Mr G provided about his income and his other creditors. using a credit reference agency.

Based on the term of the loan and the repayment amounts, I think Oplo should have fully reviewed Mr G’s finances. I don’t think its checks went as far as this. However, as our adjudicator said, I don’t have enough information to say what Oplo would’ve seen had it made further checks.

I’ve gone on to closely look at the information Oplo obtained before lending to see if it was right for Oplo to think Mr G could sustainably repay this loan.

Oplo recorded that Mr G had an income of £2,200. His general expenditure was recorded as being around £1,000. So, before any debt repayments, Mr G had around £1,200 of spare income.

It’s been established that Mr G already had a large amount of other credit before he took this loan. He had a mortgage of just over £70,000. He had other high cost credit loans of around £17,500. And he had credit cards, and other revolving credit accounts, that had balances of around £17,000. Mr G had taken the Oplo loan to consolidate three of his outstanding credit cards which had combined balances of around £9,000.

I do accept that this consolidation may have led to Mr G paying a lower amount each month. But it's not clear to me if this would be the most cost-effective way to repay his debt. There would be a real chance here that the interest on the new high cost loan would turn out to be higher than the credit card interest it replaced.

And Mr G still had a lot to repay each month. This is because, even if I use 5% of the remaining credit card balances, or 3% as Oplo thinks it is reasonable to do, then Mr G would still be paying not far short of £1000 a month to all of his credit. This is a very high amount of his income and it's likely that Mr G would run into problems later on because of this.

So, I don't think it's reasonable to say that the information Oplo had makes it safe to say Mr G would be able to repay enough of his existing debts for this loan to have made a difference. Put as simply as I can, he already owed too much for this new loan to do this. It looks like his financial situation would have remained precarious after this loan.

So, I don't think that Oplo could say with any degree of confidence that taking the new loan would allow Mr G to make the loan repayments sustainably. And I don't think it was responsible to lend.

I've also thought about whether Oplo acted unfairly in some other way and I haven't seen any evidence that it did.

But Oplo needs to put things right as I think it irresponsibly lent this loan.

Putting things right

Oplo now needs to:

- Remove all interest, fees and charges applied to the loan.
- Treat any payments made by Mr G as payments towards the capital amount of £10,000.
- If Mr G has paid more than the capital then any overpayments should be refunded to him with 8%* simple interest from the date they were paid to the date of settlement.
- But if there's still an outstanding balance, Oplo should come to a reasonable repayment plan with Mr G.
- Remove any adverse information about the loan from Mr G's credit file.

*HM Revenue & Customs requires Oplo to take off tax from this interest. Oplo must give Mr G 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 Mr G's complaint. Oplo PL Ltd should put things right for Mr G as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 26 April 2022.

Andy Burlinson
Ombudsman