

The complaint

Mr K says Oplo PL Ltd lent to him irresponsibly.

What happened

Mr K took out a 36-month instalment loan for £2,000 from Oplo on 19 August 2017. The monthly repayments were £80.36 and the total repayable was £2,892.96.

In summary, Mr K says the loan was not affordable for him. Oplo based its decision on his overtime pay and that stopped. He had to borrow from other lenders to make the repayments.

Our adjudicator upheld Mr K's complaint. He said the lender carried out proportionate checks but did not make a fair lending decision based on the information it gathered. He said the results of the credit check showed Mr K was most likely having problems managing his money. And he found that amount Mr K would need to spend to meet all his monthly credit commitments was such a significant proportion of his income that he would struggle to make his repayments to the loan sustainably.

Oplo disagreed. In summary, it said it had asked Mr K about the adverse data on his credit file and was comfortable with his explanations. And it included the related repayments in its affordability assessment. It disagreed with the finding that Mr K wasn't making the contractual repayment on his mortgage. His recent credit commitments were up-to-date. And whilst it agreed that Mr K would be spending over £600 a month on his unsecured credit repayments, it found this to be affordable as he had a good amount of disposable income.

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.

Our approach to unaffordable/irresponsible lending complaints is set out on our website and I've followed it here.

The Financial Conduct Authority (FCA) was the regulator when Oplo lent to Mr K. Its rules and guidance, set out in its Consumer Credit Sourcebook (CONC), obliged Oplo to lend responsibly. Amongst other things, Oplo was required to carry out a reasonable and proportionate assessment of whether Mr K could afford to repay what he owed in a sustainable manner. This is sometimes referred to as an affordability assessment or an affordability check.

The checks also had to be borrower-focused. So Oplo had to think about whether repaying the credit sustainably would cause any difficulties or adverse consequences for Mr K. 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 K.

Checks also had to be proportionate to the specific circumstances of each loan application.

In general, what makes up 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 and cost of credit they have applied for.

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

- the *lower* a customer's income (reflecting that it could be more difficult to make any repayments to credit from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet higher repayments from a particular level of income);
- the *longer* the period of time a borrower will be indebted for (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make repayments for an extended period).

There may also be other factors which could influence how detailed a proportionate check should've been for a given application – including (but not limited to) any indications of borrower vulnerability and any foreseeable changes in future circumstances. I've kept all of this in mind when thinking about whether Oplo did what it needed to before agreeing to lend to Mr K, and have considered the following questions:

- did Oplo complete reasonable and proportionate checks when assessing Mr K's loan application to satisfy itself that he would be able to repay the loan in a sustainable way?
- if not, what would reasonable and proportionate checks have shown?
- did Oplo make fair lending decisions?
- did Oplo act unfairly or unreasonably in some other way?

Oplo asked for some information from Mr K before it approved the loan. It asked for details of his income and his monthly costs. It checked his salary using a third-party verification service. It reviewed his credit file to understand his credit history and existing commitments. It asked about the purpose of the loan which was for new windows. From these checks combined Oplo concluded Mr K had monthly disposable income of around £307 and so could afford the loan repayments of £80.36.

I think these checks were proportionate, but I don't think Oplo made a fair lending decision.

Our adjudicator found the credit check showed Mr K was most likely having problems managing his money. Oplo disagreed saying it found out the cause of Mr K's three County Court Judgments (CCJ) and took into account the related repayments. I accept it did this, and that two of these adverse entries could be seen as historic - with one settled, but there was one for over £9,000 that had been registered just over 12 months ago. I agree with the lender's comments on Mr K's mortgage account – that it seems to have been up-to-date and not in any kind of reduced payment plan. As Oplo pointed out Mr K's active credit was up-to-date, but equally he was using a number of high-cost lending solutions such as home credit - and had done for some time suggesting he may already be in a cycle of borrowing to repay.

What persuades me more that Oplo's lending decision was wrong however is the amount of his income Mr K would need to spend ongoing to service his debt. I have used the salary Oplo calculated plus the benefits Mr K received to understand his monthly income (£1,640.51). He was already spending £576.60 each month and giving this loan increased his total spend on unsecured debt to around 40% of his income - and to 50% if Mr K's share

of the mortgage is included. At this level I think Oplo ought to have realised there was a risk Mr K would be unable to sustainably repay this loan over the 36-month term – that is, without borrowing to repay, or suffering other adverse financial consequences. And to meet its regulatory obligations Oplo had to consider this, not just the pounds and pence affordability.

It follows I think Oplo was wrong to give the loan to Mr K.

I haven't seen any evidence Oplo acted unfairly or unreasonably in some other way towards Mr K.

Putting things right

It's reasonable for Mr K to have repaid the capital amount that he borrowed as he had the benefit of that money. But he has paid interest and charges on a loan that shouldn't have been given to him. So he has lost out and Oplo needs to put things right.

I understand Oplo has sold the outstanding balance of the loan to a third party. It should first try to buy it back. If it is not able to do so it must work with new owner to achieve the same outcome as the steps below.

It should:

- Refund all the interest and charges – so add up the total Mr K repaid and deduct the sum from the capital amount.
- If reworking Mr K'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*.
- If reworking Mr K's loan account results in an outstanding capital balance, Oplo should try to agree an affordable repayment plan with Mr K.
- Remove any adverse information recorded on Mr K's credit file in relation to the loan.

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

My final decision

I am upholding Mr K's complaint. Oplo PL Ltd must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 19 May 2022.

Rebecca Connelley
Ombudsman