

The complaint

Mr A has complained that Oplo PL Limited (trading as “1st Stop”) lent to him irresponsibly.

What happened

1st Stop provided Mr A with two personal loans. Details are given below:

Loan	Capital amount	term	Total amount to repay	Monthly instalment	Date of loan
1	£3000	36 months	£4,339.44	£120.54	17/08/2018
2	£8000	60 months	£14,480.40	£241.34	08/08/2019

I issued a provisional decision on this complaint in February 2022. Both parties have received a copy of that provisional decision, but for completeness I include an extract from the decision below. I said;

“ Were 1st Stop’s checks reasonable and proportionate for Loan 1 and 2?

1st Stop says that it carried out an income and expenditure assessment with Mr A prior to providing him with loan 1 in August 2018. It says it also carried out a credit check. 1st Stop says it verified Mr A’s income by using an online verification tool.

1st Stop says it verified Mr A’s income was £1475, and he declared to it that he was receiving £82.80 in child benefit. It used Office of National Statistics (ONS) data to calculate his living costs and recorded this down as £626.85. It also used information from his credit search to calculate his credit commitments. It noted down his mortgage payment as £462 and a credit card monthly payment as £12.51. It could see that Mr A had 3 defaults and recorded down payments for 2 of these of £25 and £50. After it deducted the loan repayment of £120.54, it saw that according to its calculation Mr A had disposable income of £260.90. So, based on this I can see why it would think that Mr A could afford loan 1. But I don’t think it carried out proportionate checks when it carried out its assessment.

I say this when I consider the amount Mr A would be repaying back and the term of the loan. And also due to the information it had gathered and in particular what it found on its credit search. Mr A had 3 defaults that although were incurred years before this application, still had balances that Mr A needed to repay. In addition, Mr A had some arrears on his mortgage account. So, although 1st Stop asked Mr A about these entries on its credit search, I think it ought to have gone further with its checks here and carried out a complete review of Mr A’s finances. This is so that it could assure itself that Mr A could repay this loan over the 3-year term in a sustainable way.

Again, 1st Stop says it carried out an income and expenditure assessment with Mr A prior to loan 2 in August 2019. This was a ‘top up’ loan and Mr A paid the outstanding balance of loan 1 with some of the capital of loan 2. Just like Loan 1, 1st Stop says it carried out a credit check and also verified Mr A’s income using an online tool.

1st Stop verified Mr A's income this time to be £1555 with child benefit of £82.80. It used ONS data to calculate Mr A's living expenses as £667.40. It used information from its credit search to assess Mr A's credit commitments. It recorded down Mr A's mortgage payment as £467.00 and a monthly credit card payment of £13.32. After the monthly repayment for Loan 2, it assessed Mr A's disposable income as £248.74. Again, loan 2 on the surface would look affordable for Mr A but I don't think 1st Stop carried out proportionate checks for this loan either.

I say this because this was now Mr A's second loan with 1st Stop and it was for a lot more. Mr A was also asking for this loan to be over 5 years, a much longer term. In addition, 1st Stop would have seen within the credit search results it had in front of it that Mr A had made no progress in repaying the outstanding balances on his 3 defaulted accounts. I think on seeing this, and considering the size and term of loan, I think 1st Stop at this stage ought to have done more and carried out a complete review of Mr A's finances that included verifying his expenditure as well, so that it could see that he could repay the loan over the 5 year term.

In conclusion and for the reasons given above, I don't think that the checks 1st Stop carried out before providing Mr A with his loan were reasonable and proportionate.

Would reasonable and proportionate checks have indicated to 1st Stop that Mr A would have been unable to repay loans 1 and 2?

As reasonable and proportionate checks weren't carried out before either loan was provided, I can't say for sure what they would've shown. So, I need to decide whether it is more likely than not that a proportionate check would have told 1st Stop that Mr A would have been unable to sustainably repay loan 1 in 2018 and then loan 2 in 2019.

1st Stop was required to establish whether Mr A could make his loan repayments without experiencing significant adverse consequences – not just whether the loan payments were technically affordable on a strict pounds and pence calculation.

Mr A has provided our service with bank statements from the period of time before the loans were granted. He has provided statements from 2018 and also 2019. I've carefully considered the information provided within these statements. Having done so, it's clear Mr A was in financial difficulty at the time both loans were granted. I will explain why I think this was the case.

For loan 1 that it granted in August 2018:

- 1st Stop could see 3 defaulted accounts but included monthly repayments for only 2 of them. Mr A still needed to repay the balance of £2996 owing on a credit card, a third defaulted account. This was not considered by 1st Stop in its assessment and so any repayment to this debt would have come from the disposable income that it had calculated.*
- Mr A was regularly using his overdraft facility during the three-month period leading up to him requesting this loan. The fees that he would have incurred would have used up more of that disposable income.*
- I can see within the bank statements that Mr A had more expenditure going out of his account each month than his income.*

For loan 2 that it granted in August 2019:

- *1st Stop saw that the same 3 defaults were on Mr A's credit search results with outstanding balances, but it didn't include them in its assessment. Even though Mr A had these to repay. Instead it noted "makes no payments to any defaults". I don't think it made a fair assessment of Mr A's credit commitments here by not taking these 3 accounts into consideration.*
- *Again, Mr A was heavily using his overdraft facility, and this would have incurred fees that would have eaten away at any disposable income he may have had.*
- *Mr A took out a short-term loan in May 2019 to cover a shortfall in his finances and in August 2019, only a day before he requested this loan, he made a sizable repayment to a pawnbroker.*
- *Mr A's expenditure during the time leading up to him requesting Loan 2 was higher than the income he was receiving.*

Mr A has told our service that during the time leading up to both loans 1 and 2, he was borrowing money from friends and family to cover a shortfall in his finances. I can see on the statements he has provided that there are several deposits and I think on balance these are the amounts that Mr A is referring to in both 2018 and 2019.

When I consider all that I have said above for loans 1 and 2, I think if 1st Stop had carried out further checks it would have uncovered all of this and seen the true extent of Mr A's finances. It would have seen in both instances that Mr A had more going out than was going in. To cover the shortfall, on balance and after looking through his bank statements it looks like he was receiving money from friends and family to cover the shortfall as he has told our service was the case. I think on seeing this 1st Stop would have seen that the loan repayments for both loans were not affordable or sustainable for Mr A and I think it would have not provided him with them.

So, it follows that I currently think that 1st Stop needs to put things right."

I asked both parties to let me have any comments, or additional evidence, in response to my provisional decision.

Mr A didn't respond to my provisional decision.

1st Stop has provided a detailed response and although I have not included every point that it has made below, I have considered everything it has said carefully. I will summarise what I believe the most relevant points that it has made. It says:

- It maintains that the checks it completed for both loans were reasonable and proportionate.
- For loan 1, whilst defaults were evident that doesn't automatically preclude it from providing a customer with lending. The explanation for the historic arrears from Mr A was both plausible and acceptable. It says it did not give it cause to probe further into his finances.
- For loan 2, Mr A was not making any payments at this stage to the 3 historic defaults. It says this shows it considered these accounts and made a fair and accurate assessment of his credit commitments.
- For Loan 2, the ombudsman commented that a day before Mr A requested the loan, he made a sizeable repayment to a pawnbroker. It says unless Mr A had disclosed this to it, this is not something it could reasonably have been expected to

have known about.

- The ombudsman commented upon the use of the overdraft facility ahead of both loans. It says the account was within the agreed limit and there were no missed payments markers.
- Overall, it didn't think it did anything wrong when it agreed to lend to Mr A on either occasion.

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.

The submission from 1st Stop hasn't persuaded me that I should change my provisional decision.

1st Stop says the checks it completed for both loans were reasonable and proportionate. It has also made comments about information that I have relied upon that it says it didn't have when it made its checks this includes bank statements that our service gathered.

I concluded in my provisional decision that 1st Stop didn't carry out proportionate checks on either loan. I drew this conclusion when I saw how much each loan was for, the length of time that Mr A was looking to repay the credit in and also the information that 1st Stop did have in front of it. It could see that Mr A had 3 historic defaults that he hadn't repaid. There were outstanding balances on each of these accounts. So although I acknowledge 1st Stop would still potentially lend to a customer with credit impairment, I think with the information it had in front of it, it ought to have wanted to carry out a complete review of Mr A's finances to assure itself that he would be able to repay both loans in a sustainable way. The information it had gathered I think ought to have prompted it to do that for both loans.

After I drew the conclusion that the checks 1st Stop made were not proportionate, I then went on to use additional information to see what 1st Stop most likely would have seen if it had carried out further checks. This included bank statements provided by Mr A. 1st Stop says it was under no requirement to obtain bank statements and also that it couldn't reasonably have been expected to have known about information that was contained within them such as a payment to a pawnbroker. But again, I made a finding on the balance of probabilities, that 1st Stop needed to carry out further checks. And so, my findings after that point are looking at what 1st Stop would have most likely seen if it had carried out further checks. I think it would have seen that Mr A wouldn't have been able to afford either loan if it had done so, for the reasons I gave in my provisional decision.

As I am upholding Mr A's complaint, I need to think about 1st Stop would need to do to put Mr A in a position he would have been in if it hadn't agreed to lend to him. He would still need to pay back the money that he had use of, but I would need consider amongst other things that interest and charges be taken off.

I have considered all of the points 1st Stop has made in its submission, and I do thank it for engaging with and responding to the findings of my provisional decision. But my findings and decision hasn't changed. So, it now needs to put things right.

Putting things right

Having thought about everything, I think it would be fair and reasonable in all the circumstances of Mr A's complaint for 1st Stop to put things right by:

- Removing all interest, fees and charges on loans 1-2 and treat all the payments Mr A has made as payments towards the capital for each of these loans.
- If reworking Mr A's loan accounts results in him having effectively made payments above the original capital borrowed, then 1st Stop should refund these overpayments with 8% simple interest calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled*.
- Remove any adverse information recorded on Mr A's credit file in relation to loans 1-2.

*HM Revenue & Customs requires 1st Stop to deduct tax from this interest. 1st Stop should give Mr A a certificate showing how much tax it's deducted, if he asks for one.

My final decision

My final decision is that I uphold Mr A's complaint and direct Oplo PL Limited to pay compensation as described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 11 April 2022.

Mark Richardson
Ombudsman