

The complaint

Mr H complains that Oplo PL Ltd (when it was trading as 1st Stop Personal Loans Limited) irresponsibly provided him with an unaffordable loan. (To keep things simpler, I'll refer to the lender as '1st Stop').

What happened

1st Stop provided Mr H with a loan as follows:

Date taken	Loan amount	Term in months	Monthly repayment	Total amount repayable	Date repaid
7/8/2017	£8,000	60	£232.54	£13,952.40	17/9/2019

When Mr H complained to 1st Stop it said it had gone through Mr H's income and expenditure and reviewed his credit file before lending to him.

It was satisfied that there were no signs of financial difficulty and the loan was affordable and sustainable for Mr H.

Our adjudicator didn't think that 1st Stop should've provided the loan and upheld Mr H's complaint. He set out the steps 1st Stop needed to take to put things right.

1st Stop disagreed with our adjudicator and asked for the complaint to be reviewed by an ombudsman.

1st Stop mainly said that it had carried out a proportionate check before lending, it had seen nothing to make it think that further checks were needed before approving the loan and he had ample disposable income. Mr H was using its loan partly for debt consolidation - in other words, to repay other debt - which saved him money each month and it was reasonable for 1st Stop to conclude that the loan was sustainably affordable for Mr H.

1st Stop asked for an ombudsman review so the complaint comes to me 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 approach to unaffordable/irresponsible lending complaints on our website and I've kept this in mind while deciding this complaint. And having looked at the complaint afresh, I've come to the same overall outcome as our adjudicator. I'll explain why I say this.

There are some general principles I will keep in mind and questions I need to think about when deciding whether to uphold Mr H's complaint.

Before agreeing to lend, lenders must work out if a borrower can afford the loan repayments alongside other reasonable expenses the borrower also has to pay. This should include more than just checking that the loan payments look affordable on a strict pounds and pence calculation. A lender must take reasonable steps to satisfy itself that the borrower can sustainably repay the loan – in other words, without needing to borrow elsewhere.

The rules don't say what a lender should look at before agreeing to lend. But reasonable and proportionate checks should be carried out. For example, when thinking about what a borrower has left to spend on a new loan after paying other expenses, as well as taking into account the loan amount, the cost of the repayments and how long the loan is for, a proportionate check might mean a lender should also find out the borrower's credit history and/or take further steps to verify the borrower's overall financial situation.

If reasonable and proportionate checks weren't carried out, I need to consider if a loan would've been approved if the checks had been done. If proportionate checks were done and a loan looked affordable, a lender still needed to think about whether there was any other reason why it would be irresponsible or unfair to lend.

For example, if the lender should've realised that the loan was likely to lead to more money problems for a borrower who is already struggling with debt that can't be repaid in a sustainable way.

I've kept all of this in mind when thinking about Mr H's complaint.

1st Stop asked Mr H about his income and expenditure and took steps to verify his employment and the amount of his regular take home pay. 1st Stop also did its own credit checks to see how much Mr H was already paying towards servicing his existing debt and gain an understanding of his credit history.

Our adjudicator didn't think that 1st Stop's checks were reasonable and proportionate in the particular circumstances of this loan application – 1st Stop disagreed. I don't need to make any findings on this point as it doesn't affect the outcome of this complaint. And like the adjudicator, I don't think 1st Stop made a fair lending decision when it lent to Mr H based on the information it had gathered.

I say this because I don't think 1st Stop thought carefully enough about what all the information it had gathered showed about Mr H's overall financial situation. 1st Stop recorded a figure of around £2,817 for Mr H's monthly earnings. After making allowance for his likely general living costs, plus his credit costs, and keeping in mind that he was using this loan to consolidate a loan that had been costing him £377 per month, 1st Stop said this meant Mr H should still have ample disposable income to pay its loan – and he'd be £100 per month better off.

I've taken into account that 1st Stop says its credit checks didn't show any particularly concerning information. But 1st Stop was aware that as well as having to make at

least the minimum monthly repayments towards his two credit cards, Mr H would still be paying at least £900 per month towards his other outstanding credit commitments.

This would mean he would need to spend around a third of his disposable income just on servicing debt – and he'd need to spend more than this in order to make any meaningful inroads into his credit card debt within a reasonable period of time.

I think our adjudicator was right to point out that this would be such a significant proportion of Mr H's monthly income that 1st Stop ought to have realised it was unlikely that Mr H would be able to sustainably repay his loan over the five year term. And, in these circumstances, 1st Stop should reasonably have concluded that it was not fair to lend to Mr H.

I've thought carefully about everything 1st Stop has said in response to our adjudicator's view. But bearing in mind also that the loan was partly intended to finance some other spending I don't think 1st Stop could reasonably have satisfied itself that providing this loan to Mr H wouldn't put him in a worse position by increasing his overall debts.

And 1st Stop saw from its credit checks that Mr H's total outstanding unsecured credit balance was already well over £30,000 – and this figure would be more with its new loan. So, I don't think 1st Stop was able to safely say its loan would improve Mr H's overall position sufficiently to achieve a significant and sustainable improvement in his financial situation. I think the scale of Mr H's debts, compared to the much smaller value of the loan, would suggest that he would inevitably remain extensively indebted. And if the total costs of servicing all his debt were properly taken into account I think 1st Stop should have realised that, in reality, making the monthly repayments for this loan would be beyond Mr H's means.

I don't agree with 1st Stop's conclusion that the fact Mr H made repayments on time and repaid the loan early means that he was able to do so in a way that was sustainably affordable - or that the absence of any indicators of serious financial difficulty in its credit checks means this loan was sustainably affordable for him. For all the reasons above, I think 1st Stop ought reasonably to have been aware that taking further, costly lending was unlikely to help Mr H and more likely to potentially increase his indebtedness over the longer term.

So, I am upholding Mr H's complaint that he should not have been given this loan.

Putting things right

Our adjudicator didn't recommend that 1st Stop should pay any additional redress. Mr H has said he accepts our adjudicator's recommendations and I haven't seen anything which makes me think that 1st Stop acted unfairly or unreasonably towards Mr H in some other way. So I'm not awarding any additional redress.

I think it is fair and reasonable for Mr H to repay the capital amount that he borrowed, because he had the benefit of that lending. But he has been charged extra for a loan that should not have been provided to him. In line with this Service's approach, Mr H shouldn't repay more than the capital amount he borrowed.

As I understand the loan is now settled, 1st Stop should do the following:

- add up the total amount of money Mr H received as a result of having been given the loan. The repayments Mr H made should be deducted from this amount.
- If this results in Mr H having paid more than he received, then any overpayments should be refunded along with 8% simple interest* (calculated from the date the overpayments were made until the date of settlement).
- Whilst it's fair that Mr H's credit file is an accurate reflection of his financial history, it's unfair that he should be disadvantaged by any adverse information recorded about a loan that was unfairly provided. So 1st Stop should remove any negative information recorded on Mr H's credit file regarding the loan.

*HM Revenue & Customs requires 1st Stop to deduct tax from this interest. 1st Stop should give Mr H a certificate showing how much tax has been deducted if he asks for one.

My final decision

I uphold this complaint and direct Oplo PL Ltd (formerly trading as 1st Stop Personal Loans Limited) to take the steps set out above to put things right for Mr H.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 9 May 2022.

Susan Webb
Ombudsman