

The complaint

Mr B complains Oplo PL Ltd ('Oplo') lent to him irresponsibly. Mr B has complained with the help of a claims management company.

What happened

In August 2018 Mr B applied for, and was given a loan for £4,000, which was repayable over a period of 24 months. Mr B told Oplo the purpose of the loan was for car repairs and to repay arrears owing to his water company. The repayments were around £216 a month, and in total Mr B agreed to pay back about £5,190 over the two years, once interest was added.

Mr B says Oplo shouldn't have given him the loan because it wasn't affordable. Oplo says it did check whether the loan was affordable, and Mr B had enough disposable income to make the loan repayments.

Our investigator thought Mr B's complaint should be upheld. Oplo Limited disagreed, so this complaint has been passed to me to make 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 explained how we handle complaints about unaffordable and irresponsible lending on our website. And I've used this approach to help me decide Mr B's complaint. Having thought about all of that, I have reached the same conclusions as those reached by our investigator for broadly the same reasons.

Oplo needed to take reasonable steps to ensure that it didn't lend to Mr B irresponsibly. It should have completed reasonable and proportionate checks to satisfy itself that Mr B would be able to pay the loan in a sustainable way. There is no set list of what reasonable and proportionate checks should look like, rather greater thoroughness might be reasonably expected where a person on a lower level of income may be borrowing a high sum, or taking out borrowing over a longer period which could potentially cost more in the longer term.

Oplo did complete some checks to see if the loan was affordable. Oplo has said Mr B would not have been offered the loan if he had not passed its checking criteria. It explained that part of its checks involved reviewing the applicant's credit profile to assess their income and expenditure, and it also used information from Mr B's active credit file.

Mr B was in permanent employment and declared he had been with the same employer for over seven years. He had also declared his take home pay as £2,000 a month when applying for this loan. Oplo used an automated check of his current account turnover to validate the declared income. I have some concerns about Oplo relying solely on a credit reference agency data tool to analyse Mr B's current account turnover data and validate the income he had declared. I say this because I've seen from his previous application eighteen months earlier to Oplo that Mr B's current account was held jointly with his partner and both

of their salaries were mandated to the one account. And that Oplo validated Mr B's average take home pay as close to £1,700 a month (and his partner took home on average £470 a month).

I've noted the actual data returned included an income confidence factor score of '7', which I understand can include joint incomes. So Oplo ought either to have carried out further checks to ensure that Mr B's partner's income was available (also taking account of her expenditure) or to have validated his income by another means, as it had done previously. I accept it is possible that Mr B had received a pay increase in the time since his last application, but I think a 17.6% increase over 18-months was unlikely, given he was employed in the public sector.

Although I'm not convinced Mr B's income was as much as he declared, I don't need to make a finding on his actual level of income. I say this because I'm satisfied there is sufficient information available to show Mr B was experiencing financial difficulties. Oplo's copy of Mr B's credit file from the application shows that a County Court Judgement was registered against him for £918 in the month before. It also shows that his revolving credit balances – cleared by his previous Oplo loan – had increased to 99% of available limits, with 16 cash advances within the last year, totalling around £2,950. And the purpose of the loan was partly to clear arrears on his water utilities account.

So in the 18 months since Mr B had consolidated his debts when he entered into the first agreement with Oplo, his total level of revolving credit had reached its limits again. And while he was generally keeping up with his payments towards his first agreement, this suggests he had needed to keep borrowing more to be able to do this – it wasn't sustainable. I think Oplo's assessment of Mr B having £438 disposable income (before the new loan repayment) is at odds with his wider financial situation as depicted on his credit file.

I think the information Oplo already had should have been enough for it to realise that Mr B wasn't in a stable financial situation and further credit probably wasn't affordable. Cash withdrawals on a credit card are generally accepted to be a sign that someone might be in financial difficulties – as are utilities arrears. If Mr B had the level of disposable income Oplo calculated him to have, it's unlikely he would have needed to advance cash on his credit card and pay the extra interest for this. So I also think it was wrong of Oplo to agree to lend Mr B any further money.

Putting things right

When I find that a business has done something wrong, I'd normally direct that business – as far as it's reasonably practicable – to put the complainant in the position they would be in now if the mistakes it made hadn't happened. In this case, that would mean putting Mr B in the position he would now be in if he hadn't been given the loan in question. However, this isn't straightforward when the complaint is about unaffordable lending.

Mr B was given the loan and he used the money. In these circumstances, I can't undo what's already been done. So, it isn't possible to put Mr B back in the position he would be in if he hadn't been given the loan in the first place. Instead, I must consider another way of putting things right fairly and reasonably given the circumstances of this complaint.

Having done so, I think Oplo PL Ltd should:

- a) Remove all interest, fees and charges applied to his loan from the outset. The payments Mr B made should then be deducted from the new starting balance. If the payments Mr B has made total more than the amount he was originally lent, then any surplus should be treated as overpayments and refunded to him.

- b) Add 8% simple interest* calculated on any overpayments made, from the date they were paid by Mr B to the date the complaint is settled.
- c) Remove any adverse information recorded on Mr B's credit file as a result of this loan, once the debt is repaid.

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

My final decision

For the reasons I've explained, I uphold Mr B's complaint and I direct Oplo PL Ltd to put things right for him in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 15 June 2023.

Stefan Riedel
Ombudsman