

## **The complaint**

Mr D says Oplo PL Ltd lent to him irresponsibly.

## **What happened**

Mr D took out a loan for £5,000 over 24 months on 14 January 2022. The monthly repayments were £292.24 and the total repayable was £7,013.72.

Mr D says insufficient affordability checks were carried out and not enough questions were raised. He has made the required repayments but it has been hard and left him with not much money for priority bills and other credit commitments.

Our investigator upheld Mr D's complaint. He said Oplo's checks showed Mr D would need to spend a significant portion of his income on his credit commitments after he took on this loan. So there was a risk he would be unable to sustainably repay it.

Oplo strongly disagreed and asked for an ombudsman's review. It said Mr D would have £473.67 of monthly disposable income which is a reasonable level. It accepted spending 38% of income on credit commitments may be considered to be high by this service, but argued some of this loan was to be used to repay existing debt and the figure must be taken in the context of Mr D's overall financial position. Indeed, as he was settling other debts he would have more available income than its calculation showed. Mr D owned his home outright and he testified this loan was affordable.

It said Mr D's overall level of debt of £8,029 was manageable in his circumstances. He may have been using his credit card limits but there were no missed payments. And Mr D was only marginally over the limit on his mail order account and the balance was reducing. It pointed out whilst there were historic defaults on Mr D's credit file, his recent account management was good. Finally, Oplo said Mr D has made all his contractual repayments and the account is up to date.

## **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 rules and regulations when Oplo lent to Mr D required it to carry out a reasonable and proportionate assessment of whether he 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 D. 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 D.

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 D. So to reach my conclusion I have considered the following questions:

- did Oplo complete reasonable and proportionate checks when assessing Mr D'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 a fair lending decision?
- did Oplo act unfairly or unreasonably in some other way?

I can see Oplo asked for certain information from Mr D before it approved the loan. It asked for details of his income and used a third-party income verification service to check his declaration. It estimated his living costs using national statistics. It also checked his credit file to understand his existing monthly credit commitments and credit history. It asked about the purpose of the loan which Mr D said was to repay all his existing credit and towards a new kitchen. From these checks combined Oplo concluded the loan was affordable for Mr D and would leave him with £473.67 of monthly disposable income.

I think these checks were proportionate but I am not persuaded Oplo made a fair lending decision based on the information it gathered. I'll explain why.

Giving this loan to Mr D meant he would need to spend almost 40% of his income on repaying his credit. And there were already possible indicators that he might have been under some financial pressure, with four accounts close to or at their credit limit.

Oplo counters this concern with two main arguments. It says its affordability assessment showed Mr D would still have around £475 disposable income each month which was a reasonable amount. But it was required to do more than check the pounds and pence affordability for Mr D. It needed to be sure he would be able to make his repayments sustainably over the term of the loan – so without borrowing to repay, or suffering any other adverse financial consequences. And I can't see it got those reassurances from its checks.

Oplo's second defence is that Mr D would in fact have had more disposable income than it calculated as he was using this loan to settle other debts. But I can't see it understood this in enough detail to rely on it. It did not ask which debts he was repaying. He told Oplo 'all other creditors' with the balance to be used towards a new kitchen. But from the checks it completed Oplo knew this could not be the case as his total debt exceeded the loan value. I think it ought to have asked more if it wanted to lend on the basis Mr D's other debts were being settled in part.

This means it went ahead without evidence to show that Mr D would not need to spend 38% of his income each month to repay his debts. And it knew his income was relatively low at £1,850. I note it also only assumed Mr D would make the minimum repayments on his credit card debt and we would expect it to allow a slightly higher repayment to ensure those debts were repaid sustainably. In the round, I think this level of spend on debt ought to have concerned Oplo and it ought to have concluded there was a high risk the loan would not be sustainably affordable for Mr D over its term.

It argues that Mr D has managed to make his repayments each month, but it does not know how he has funded his repayments – and Mr D's testimony is that it has been difficult and he has been left short of money.

It follows I think Oplo was wrong to lend to Mr D. I haven't found any evidence it acted unfairly or unreasonably towards Mr D in some other way.

### **Putting things right**

It is fair that Mr D repay the capital he borrowed as he has had the benefit of that money. But he should not be charged interest and fees on a loan that was lent irresponsibly.

So Oplo should:

1. Refund all the interest and charges Mr D has paid to date.
2. If the borrowing is still in place, Oplo should reduce the outstanding capital balance by the amount calculated at step 1.
3. If, after step 2, there remains an outstanding capital balance, Oplo should ensure that it isn't subject to any historic or future interest and/or charges. If Mr D is struggling to make his repayments Oplo should work with him to agree an affordable repayment plan.
4. But if step 2 leads to a positive balance, the amount in question should be given back to Mr D and 8% simple interest\* should be added to the surplus.
5. Remove any adverse information recorded on Mr D credit file once he has repaid any outstanding capital balance.

\*HM Revenue & Customs may require Oplo to take off tax from this interest. If it does, Oplo must give Mr D a certificate showing how much tax it's taken off if he asks for one.

### **My final decision**

I am upholding Mr D'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 D to accept or reject my decision before 1 May 2023.

Rebecca Connelley  
**Ombudsman**