

The complaint

Mr L complains that Oplo PL Ltd (“Oplo”) irresponsibly granted him a personal loan agreement he couldn’t afford to repay.

What happened

In February 2019, Mr L took out a personal loan with Oplo. Oplo says the stated purpose was home improvements. Under the terms of the loan agreement, Mr L was borrowing £12,000 and paying it back by way of 72 monthly payments of £286.67. The total repayable under the agreement was £20,640.24.

Mr L had taken an earlier loan with Oplo for a lower sum and repayable over a shorter period in July 2018. Our adjudicator has already made a finding about that loan.

Mr L says that Oplo didn’t complete adequate affordability checks. He says if it had it would have seen the agreement wasn’t affordable as he was already struggling with debt, including existing credit.

Oplo didn’t agree. It said that it carried out a thorough assessment which included using the information Mr L gave in his application and information provided by a credit reference agency.

Our adjudicator recommended the complaint be upheld. She thought Oplo ought to have realised the agreement wasn’t affordable to Mr L.

Oplo didn’t agree and said its checks were reasonable and proportionate.

The case has therefore been passed to me for 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.

Oplo will be familiar with all the rules, regulations and good industry practice we consider when looking at a complaint concerning unaffordable and irresponsible lending. So, I don’t consider it necessary to set all of this out in this decision.

When Mr L applied for the loan, he told Oplo he was earning a monthly net income of around £2,300. Oplo said it checked with a credit reference agency which showed Mr L had around £8,500 in ongoing credit commitments plus a monthly mortgage to pay. He also had a history of taking out short term high interest loans. He already had three unsecured loans in place (including the earlier one he’d taken with Oplo), plus a credit card. Oplo also relied on statistical data to calculate what Mr L’s monthly household costs and daily living expenses were likely to be. Oplo noted that Mr L had had a default with his credit in the past but this hadn’t been within the past 12 months. Mr L has also sent us his credit report which shows that he didn’t have any adverse markings on his credit file, such as arrears, and there was

no recent history of other adverse events such as having a county court judgment registered against him.

From the available information it doesn't look as if Oplo took steps to verify Mr L's income or check on his actual financial situation, such as by asking for actual details about his monthly spending. I think it would be reasonable to do so, especially given that this was a second and much larger loan that was repayable over a longer period – and therefore a more substantial financial commitment. Although Oplo completed a credit check, this would only be an indication as to what his regular living expenses were. So I don't think in this case Oplo's checks can be said to be reasonable and proportionate.

Had it carried out more proportionate checks before making its lending decision, I think Oplo would have been in a much better position to understand more about Mr L's committed expenditure, such as his daily living costs. I can't say for sure exactly what Oplo would have found out at the time if it had asked. In the absence of anything else, I think it would be reasonable to place significant weight on the information contained in Mr L's bank statements as to what would most likely have been disclosed.

I've seen that Mr L provided our adjudicator with three months of bank statements leading up to the lending decision. I agree with our adjudicator that these show that Mr L was not managing his finances well. I note he was also reliant on his ex-partner for additional income. He has told us this was to help him pay for everyday household items and to buy groceries. I've noted that these extra payments tended to be at times when Mr L had used much if not all of his available overdraft. I should say that I think occasional use of an overdraft facility is sometimes to be expected. But Mr L's statements show regular and sustained reliance on his overdraft facility. In December 2018 he took out a short term loan for £800. I've also noticed that at the time Mr L was also making regular use of gambling sites, which is something Mr L was aware of as being a particular problem given his poor financial situation. All of this strongly suggest that Mr L's financial welfare was already deteriorating. And so I think that taking on further debt at this point would only serve to accelerate his problems and thereby worsen his financial position and ability to manage his existing debt and credit.

Putting together all the information I've seen – including the comments Oplo has made in response to our adjudicator's findings - I think it's very likely that Mr L was already financially stretched at the time he applied for the loan and that the situation was likely to become worse if he took on further credit. He was already reliant on credit and a previous loan from Oplo and had taken out further credit in the previous twelve months, including high cost credit. So I think all this demonstrates that Mr L didn't have enough of what could genuinely be called his own disposable income to afford the additional borrowing he was seeking from Oplo. I therefore think Oplo ought to have done more to look into Mr L's financial situation before granting this loan. Oplo therefore didn't act fairly by approving the loan.

Putting things right – what Oplo needs to do

As I don't think Oplo ought to have approved the lending, I don't think it's fair for it to be able to charge any interest or add charges under the loan agreement. Mr L should therefore only have to pay the original loan amount, being £12,000. Anything Mr L has paid in excess of that amount should be refunded as an overpayment.

To settle Mr L's complaint Oplo should therefore do the following:

- Refund any payments Mr L has made in excess of £12,000. It should add 8% simple interest per year* from the date of each overpayment to the date of settlement.

- Remove any adverse information recorded on Mr L's credit file regarding the agreement.

*HM Revenue & Customs requires Oplo to take off tax from this interest. Oplo must give Mr L a certificate showing how much tax it's taken off if he asks for one.

My final decision

I uphold this complaint and direct Oplo PL Ltd to put things right in the manner set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 24 November 2023.

Michael Goldberg

Ombudsman