DRN-4333096

The complaint

Miss D says Oplo PL Ltd irresponsibly lent to her.

What happened

Miss D took out a 60-month instalment loan from Oplo on 17 September 2020. It was for £15,000 and the monthly repayments were £387.44. The total repayable was £23,246.60. The purpose of the loan was debt consolidation.

Miss D says Oplo should never have given her this unaffordable loan. She had maxed out her overdraft on a number of different current accounts; she only made the minimum payment on her credit cards and had other loans. She was also gambling. This loan led to her debt spiralling, impacting her financial and mental health. She does not think Oplo carried out proper checks before lending.

Our investigator said Oplo was wrong to lend to Miss D. He concluded the lender's checks were not proportionate and had Oplo had completed better checks it would have realised it was most likely the loan would not be sustainably affordable for Miss D. He set out what Oplo should do to put things right.

Oplo disagreed with this assessment and asked for an ombudsman's review. It said, in summary, its checks were proportionate. It did not require bank statements to support Miss D's application and there is no regulatory obligation on a lender to obtain them.

It added even if it had, it would only have requested them for Miss D's main account and we have relied on statements for a second account she held. Its checks showed Miss D would be left with monthly disposable income of £1,315.09 and so could afford the loan – and she still could have based on our affordability calculation resulting in £260 of disposable income.

It said it was not required to repay the debts Miss D intended to settle, or to obtain confirmation she had done so. Its assessment showed that even if she did not settle the debts (aside from the one it repaid directly) she could afford the loan.

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 Miss D required it to carry out a reasonable and proportionate assessment of whether she could afford to repay what she 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 Miss D. In other words, it wasn't enough for Oplo to simply think about the likelihood of it getting it money back, it had to consider the impact of the loan repayments on Miss 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 Miss D. So to reach my conclusion I have considered the following questions:

- did Oplo complete reasonable and proportionate checks when assessing Miss D's loan application to satisfy itself that she 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 Miss D before it approved the loan. It asked for details of her income and a payslip to verify this. It estimated her living costs using national statistics, taking into account the split in mortgage costs and bills between her and her partner. It also checked her credit file to understand her existing monthly credit commitments and credit history. It asked about the purpose of the loan which Miss D said was to clear all her current credit card and store card debt. From these checks combined Oplo concluded the loan was affordable for Miss D and would leave her with of £1,315.09 of monthly disposable income.

I am not satisfied these checks were proportionate in the context of the value and term of the loan, and the results of Oplo's initial credit check. I say this as the check showed Miss D had £14,012 in loans and £7,158 of revolving credit. She was using 92% of her available revolving credit and had made minimum payments 30 times in the last 36 months. She had four current accounts and was using an overdraft facility on three of those accounts. Oplo says that this indicated a stable financial position. But I am not of the same view.

Whilst I accept Miss D had a positive payment history, I think Oplo ought to have been concerned Miss D was under some financial pressure and possibly reliant on credit cards and her overdrafts. I also think Oplo ought to have been concerned about the amount of her income Miss D was spending on credit at the time she applied. And so it should have sought better assurances that Miss D would be clearing other debts: the affordability assessment it has submitted to this service indicates that Oplo only 'ticked' one of Miss D's debts as 'consolidated' which was a store card with a balance of £1465 and a monthly repayment of £43.95.

So, in the round I think Oplo ought to have carried out a fuller financial review. I appreciate Miss D said the loan was for debt consolidation but Oplo was not clearing the debts directly (bar one account) so I don't see that was a reason for it not to need to do better checks.

To understand what proportionate checks would most likely have shown I have looked at Miss D's bank statements from three months prior to her application. I am not saying Oplo had to do exactly this, but it is a reliable way for me to recreate what better checks would likely have shown the lender. Miss D provided statements for her two main accounts. Oplo argues it would only ever have considered the primary account her income was paid into. But had it done this I would have expected it to ask about the frequent transfers between that and the second account I have statements for.

Had it done so it would have seen that Miss D was gambling frequently although the value was not, as it says, a significant proportion of her salary. This might not in isolation have been a reason to decline the application, but taking into account all the circumstances here had Oplo had done better checks I think it ought to have realised there was a considerable risk giving Miss D this loan might cause her financial harm.

There were mitigants it could have put in place to manage this risk – such as repaying her creditors directly as is industry best practice. It argues it was not obliged to do this – and I accept it is not a regulatory requirement - but as a responsible lender it may have thought to do this in the circumstances of this case.

Oplo also says even if Miss D hadn't cleared her other debts she could have afforded the loan – but its analysis is based solely on pounds and pence affordability and does not consider if the repayments would have been sustainable – that is, made without further borrowing or causing other financial harm. And as this scenario would have meant Miss D would be spending around 33% on her income on credit commitments (excluding her mortgage) I think there would have been a high risk she would have faced financial difficulties going forward.

This is a finely balanced case and I anticipate Oplo would argue it cannot be held responsible if the borrower does not used the loan as planned, but that does not change its obligation to have obtained the assurances it needed that giving the loan would most likely not cause harm to Miss D. And I think here there were a number of concerns, as set out above, that when combined indicated that could be the case. This means I can't conclude that Oplo made a fair lending decision.

It follows I think Oplo was wrong to give the loan to Miss D.

I haven't seen any evidence Oplo acted unfairly towards Miss D in some other way. I note she brought a separate complaint, that is now resolved, about Oplo's actions when she asked for a payment holiday on this loan. As this service has already considered that matter I have not reviewed it here.

Putting things right

It is fair that Miss D should repay the capital she borrowed as she had the benefit of that money. But it is not fair she should pay interest and charges on a loan she shouldn't have been given.

So Oplo should:

- Remove all interest, fees and charges from the balance on this loan, and treat any repayments made by Miss D as repayments of the principal.

- If this results in Miss D having made overpayments then Oplo should refund these overpayments to MIss D with 8% simple interest* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled.

- If this results in there still being an outstanding balance then Oplo should try to agree an affordable repayment plan with Miss D.

- Remove any adverse information recorded on Miss D's credit file in relation to this loan once any outstanding capital balance has been repaid in full.

*HM Revenue & Customs requires Oplo to deduct tax from this interest. It should give Miss D a certificate showing how much tax it's deducted, if she asks for one.

My final decision

I am upholding Miss D's complaint. Oplo PL Ltd, trading as Oplo, must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 6 October 2023.

Rebecca Connelley
Ombudsman