

The complaint

Mr R complains that Tandem Personal Loans Ltd, trading as Oplo Personal Loans Ltd (“Oplo”) agreed to give him a loan he couldn’t afford to repay.

What happened

In September 2022 Mr R took out a personal loan with Oplo. Oplo says the stated purpose was home improvements. Under the terms of the loan agreement, Mr R was borrowing £8,000 and paying it back by way of 48 monthly payments of £279.84. The total repayable under the agreement was £13,432.28

Mr R had taken an earlier loan with Oplo for a lower sum which Mr R was required to add in to his new loan.

Mr R 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 existing debt and trying to meet his day to day housing and living costs.

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

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

Oplo didn’t agree and said its checks were reasonable and proportionate and had fully taken Mr R’s financial circumstances into consideration.

The complaint 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.

I’ve read and considered the whole file, but I’ll concentrate my comments on what I think is relevant. If I don’t comment on any specific point it’s not because I’ve failed to take it on board and think about it, but because I don’t think I need to comment on it in order to reach what I think is the right outcome.

When Mr R applied for the loan, he told Oplo he was earning a monthly net income of around £1,900. Oplo said it checked with a credit reference agency and calculated that, aside from his existing loan and mortgage, Mr R owed around £10,600 in ongoing credit

commitments. It also factored in that he'd be paying 50% of the mortgage he'd taken out with his partner. Oplo also relied on statistical data to help calculate what Mr R's monthly household costs and daily living expenses would typically be. Oplo's checks on Mr R's credit file showed he'd had six county court judgments on his credit file since 2017, of which he still owed around £4,300. It can also be seen from the credit check that he was regularly using the full extent of his £2,500 overdraft facility with his bank.

I think the active county court judgments and overdraft use were both issues of concern. I recognise that regular use of an overdraft is not uncommon and I would say that in itself it is not necessarily an indicator of major financial difficulty. But it's a factor that, alongside the county court judgments, ought to have prompted Oplo to take steps to check and verify Mr R's income and also to better understand his monthly spending.

I also realise that Mr R was already known to Oplo as a borrower, but he was taking on a much larger loan that was repayable over a longer period – and therefore a more substantial financial commitment. And Oplo's credit check alone wouldn't be enough to give a clear indication as to how Mr R was actually managing his day to day living costs. I therefore think Oplo's checks, whilst they might be reasonable and proportionate in themselves, showed information that ought to have prompted more detailed checks. Such checks would have enabled Oplo to gain a better understanding of Mr R's financial situation and whether the problems in his credit history and what looked to be sustained use of his overdraft were issues of concern.

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 R's bank statements as an indication of what Mr R's financial circumstances were more likely than not to have been at the time. And I've kept in mind that Oplo was required to establish whether Mr R would be able to sustainably make the new loan repayments. It wasn't just a question of showing that the loan repayments appeared likely to be affordable on a strict pounds and pence basis.

I've seen that Mr R provided our investigator with three months of bank statements leading up to the lending decision. These show the weekly payments of his salary. I've noted that Mr R was able only to make small, brief dents in his overdraft once paid each week, before again returning it to its fullest extent of £2,500. I've also noted he took out a high interest loan for £2,500 in July 2022 which he told Tandem's representative was for the purpose of a holiday. In addition, I can see he was making what appear to be 'top up' transfers from a savings account with the same bank. These were typically for less than £100 and appear to have been intended to prevent the account from going beyond the overdraft limit. I further note that over this three month period the savings account balance went all the way down to zero.

All of this leads me to agree with our investigator that Mr R wasn't managing his finances well at this time and was taking on more borrowing shortly prior to this loan, notwithstanding his outstanding credit debt and defaults. I've seen that Oplo disagrees with the loan being characterised as likely to plunge Mr R further into debt. And I appreciate that bank statements alone can't provide an absolutely definitive snapshot of Mr R's financial situation at any given time. But from what I've seen, I'd say that there was a real risk that taking on yet further debt at this point would significantly worsen Mr R's financial situation.

Putting all this together, I think that had Oplo decided to carry out better checks before approving the loan, it would have seen enough to show the likelihood that the repayments would lead to a worsening of Mr R's financial position, possibly requiring him to borrow further.

I think this demonstrates that Mr R wasn't in a position to sustainably make the repayments to the new loan from his income, taking his outstanding debt, living and housing costs into consideration. And so I think Oplo ought to have done more to look into Mr R'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 R should therefore only have to pay the original loan amount, being £8,000. Anything Mr R has paid in excess of that amount should be refunded as an overpayment.

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

- Refund all the interest, fees and charges Mr R paid on his loan:
- Add 8% simple interest per year* simple on any refunded interest, fees and charges from the date they were paid to the date this complaint is settled; and
- Remove any adverse information recorded on Mr R's credit file as a result of this loan.

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

My final decision

For the reasons I've set out above, I am upholding this complaint. Tandem Personal Loans Ltd, trading as Oplo, should put things right for Mr R in the way I've also set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 6 March 2024.

Michael Goldberg

Ombudsman