The complaint

Mr F has complained that Oplo PL Ltd was irresponsible in lending to him.

What happened

In January 2019 Oplo provided Mr F with a loan of £5,000 repayable over 36 months. The monthly repayments were £196.89. Mr F said the purpose of the loan was home improvements. He repaid the loan in October 2020 with the proceeds of another loan.

Mr F complained that Oplo hadn't carried out proper checks before lending to him.

Oplo looked into his complaint. It said it had carried out proper checks and it thought the loan was affordable.

Mr F referred his complaint to us. Our adjudicator upheld the complaint. She didn't think the loan was affordable.

As Oplo didn't agree, the matter has been referred to me.

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 set out our general approach to complaints about unaffordable/irresponsible lending - including all of the relevant rules, guidance and good industry practice - on our website.

Having carefully thought about everything, I think that there are two overarching questions that I need to answer in order to fairly and reasonably decide Mr F's complaint. These two questions are:

1. Did Oplo complete reasonable and proportionate checks to satisfy itself that Mr F would be able to repay the loans without experiencing significant adverse consequences?

- If so, did it make a fair lending decision?
- If not, would those checks have shown that Mr F would've been able to do so?

2. Did Oplo act unfairly or unreasonably in some other way?

The rules and regulations in place required Oplo to carry out a reasonable and proportionate assessment of Mr F's ability to make the repayments under the agreements. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower-focused" – so Oplo had to think about whether repaying the loan would be sustainable. In practice this meant that the business had to ensure that making the repayments on the loans wouldn't cause Mr F undue difficulty or significant adverse consequences. That means he should have been able to meet repayments out of normal income without having to borrow to meet the repayments, without failing to make any other payment he had a contractual or statutory obligation to make and without the repayments having a significant adverse impact on his financial situation.

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 F**.** Checks also had to be "proportionate" to the specific circumstances of the loan applications.

In general, what constitutes 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/cost of credit they are seeking. Even for the same customer, a proportionate check could look different for different applications.

In light of this, I think that a reasonable and proportionate check ought generally to have been more thorough:

- the lower a consumer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);

- the higher the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);

- the greater the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mr F's complaint.

With regard to the first question, Oplo asked Mr F about his income and expenditure. Mr F told Oplo his net monthly income was £1,760. It verified his income using industry standard checks and also did a credit check on him. I'm satisfied that this would have shown Oplo:

- Mr F owed £4,551 on three credit cards, two loans, two mail order accounts and a current account.
- His half share of a joint mortgage was £305.50 a month.
- He'd taken out twelve new credit commitments in the previous six months, including some cash advances on credit cards.
- He was spending just over 25% of his monthly income on credit repayments (excluding his share of the mortgage).
- He used a large amount of his available credit but hadn't used the overdraft facility of £500 on his current account in the past 24 months.
- Generally he was managing his finances well with no defaults, missed payments or arrears.

Oplo said it used statistical data and figures to calculate the living expense element of affordability. This calculation takes into consideration the customer's income, region, household composition and residential status. It calculated Mr F would spend £618.51 a month on living expenses. It said based on this, its affordability calculation showed that Mr F would have a monthly disposable income of £267.82 after taking into account his existing credit commitments (including his share of the mortgage) and the new monthly repayments to Oplo. Mr F had an unsecured loan with monthly repayments of £146 which was due to be repaid in full four months after his application. At that point his disposable income would be correspondingly increased.

Oplo's notes show that it spoke to Mr F before making the loan to discuss various queries arising from the credit search. I've seen the notes of that call. They show:

- Mr F said some of the credit had been taken out so that he could build up a good credit profile after living abroad for six years.
- He'd taken out the loan with repayments of £146 a month because his car needed a new engine and he required a car for his job.
- Other credit had been taken out, including the cash advances, to fund home improvements. He needed the loan from Oplo to renovate his house but wouldn't need any further credit to finish the works.
- His partner paid half the household bills, although some were in his sole name.

Mr F was entering into a significant commitment with Oplo. He would need to make monthly repayments for a period of three years. So I think it was right that Oplo should gather and check some detailed information about Mr F's financial situation before it agreed to lend to him. I think Oplo's checks were proportionate.

But simply performing proportionate checks isn't always enough. A lender needs to react appropriately to the information that is shown by those checks. So I've looked at the results of Oplo's checks to see whether the conclusion it reached, to approve Mr F's loan application, was reasonable.

I think Oplo should have been concerned that initially with the new monthly loan repayment Mr F would be committed to paying about a third of his income on servicing his outstanding debt (excluding his share of the mortgage). In four months' time that could be expected to drop assuming he repaid one of his existing loans as planned but his credit commitments would still be over a quarter of his income (again excluding his mortgage). In my opinion this was a clear warning sign that Mr F was over-stretched financially and an indication that he was unlikely to be able to maintain such a high level of debt sustainably over the three year term of the loan.

So I think Oplo ought to have been concerned the loan wouldn't be sustainably affordable for Mr F. It follows that I think Oplo was wrong to give Mr F the loan.

I've also thought about whether Oplo acted unfairly in some other way and I haven't seen any evidence that it did.

Putting things right

Mr F has had the benefit of the loan capital. But as the loan should not have been given to him, he should not have to pay interest or charges on what he borrowed. So, I direct Oplo to:

- remove all interest, fees and charges on the loan and treat all the payments Mr F has made as payments towards the capital.
- if reworking Mr F's loan account results in him having effectively made payments above the original capital borrowed, then Oplo should refund these overpayments with 8% simple interest* calculated on the overpayments, from the date the overpayments would have arisen, to the date of settlement.
- remove any adverse information recorded on Mr F's credit file in relation to the loan.

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

My final decision

For the reasons given above, I uphold Mr F's complaint and require Oplo PL Ltd to put things right for Mr F as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 2 June 2022.

Elizabeth Grant
Ombudsman