The complaint

Mr S says Tandem Personal Loans Ltd, trading as Oplo, irresponsibly lent to him.

What happened

Mr S took out a loan for £5,000 with a £395 fee, over 60 months in February 2022. The monthly repayments were £134.16 and the total repayable was £8,049.90. He says the loan should not been provided. He had just settled a loan with Oplo weeks before when he took out a secured loan from another part of the same company. He did this as he was remortgaging to clear debts – for the fourth time. He says further checks would have shown the loan should not be accepted.

Oplo said it carried out proportionate checks that showed the loan was affordable for Mr S.

Our investigator upheld Mr S's complaint. He said Oplo should have carried out further checks and these would have shown the loan to be unaffordable for Mr S.

Oplo disagreed and asked for an ombudsman's review. It said the loan was 'within risk' and as it was for debt consolidation that would have benefitted the Mr S's finances. His credit cards would have been paid off and eased any potential pressure of his existing debt.

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 S 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 S. 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 Mr S.

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

- did Oplo complete reasonable and proportionate checks when assessing Mr S'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 before lending to Mr S. It asked for his income and verified this externally. It completed an employment check. It asked about his residential status, how household costs were shared and if he had any dependents. It used national statistics to estimate his living expenses and completed a credit check to understand his credit commitments and credit history. It asked about the purpose of the loan which was debt consolidation. From these checks combined it concluded Mr S could afford the loan.

I am not satisfied Oplo's checks were proportionate for a number of reasons. It knew from a phone call prior to lending that Mr S had just re-mortgaged and extended his secured debt to settle two loans (one with Oplo) and it could see from the credit check that he was over £2,500 overdrawn. So it I think it ought to have carried out a fuller financial review before lending to ensure it fully understood Mr S's financial position.

I have reviewed Mr S's full credit file to allow me to understand what better checks would most likely have shown Oplo. I am not saying Oplo had to do exactly this but it is a reliable way to for me to understand what better checks would most likely have shown. From this I can see that Mr S had a history of refinancing debt and yet was persistently reliant on his overdraft facility – and had been for years. He was not using this product as it is intended – for short term financial support. I think it was clear he was reliant on credit to make ends meet.

Whilst this loan was for further debt consolidation it would not allow him to repay his overdraft, after he had cleared his credit card balances. So it was most likely he would remain reliant on that borrowing. In essence, this means he would be borrowing (via his overdraft facility) to repay this loan and his other existing credit commitments. And as the debts Mr S were repaying were open lines of revolving credit, that Oplo did not know he would be closing, he could re-use that available credit and end up in a worse position. So I disagree with Oplo's assertion that the loan was financially beneficial to Mr S. I can't see it secured the assurances it needed to know that it could not just as likely have been financially harmful.

It follows I find Oplo was wrong to lend to Mr S. I note it argues the lending was 'within risk' but as I have said 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 S.

I haven't seen any evidence Oplo acted unfairly towards Mr S in some other way.

Putting things right

It is fair that Mr S should repay the capital he borrowed as he had the benefit of that money. But it is not fair he should pay interest and charges on a loan he 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 Mr S as repayments of the principal.
- If this results in Mr S having made overpayments then Oplo should refund these overpayments to Mr S 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 Mr S.
- Remove any adverse information recorded on Mr S'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 Mr S a certificate showing how much tax it's deducted, if he asks for one. If it intends to use any refund to reduce the capital balance it must do so after deducting the tax.

My final decision

I am upholding Mr S's complaint. Tandem Personal Loans 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 Mr S to accept or reject my decision before 10 April 2024.

Rebecca Connelley
Ombudsman