DRN-3081802

The complaint

Miss O complains that two loans she took out with Everyday Lending Limited (trading as Everyday Loans) were unaffordable and should not have been provided.

What happened

Miss O took out a loan (Loan 1) with Everyday Loans in June 2017 for £1,000. The loan was for 24 months and the interest rate was 249.5% APR. The repayments were £114.88 per month with a total repayment amount of £2757.12.

In February 2018, Miss O consolidated Loan 1 into a second loan (Loan 2). This was for £1997.93 with an interest rate of 299.8% APR and was also for 24 months. The monthly repayments were £260.90 with a total repayment amount of £6261.60.

Miss O says she hadn't wanted to borrow this much and that the loans were unaffordable for her. Everyday Loans said it had undertaken checks to ensure the repayments were affordable for Miss O, including reviewing two months of Miss O's bank statements, checking her payslip, conducting a credit search, and carrying out a job check. It calculated that Miss O had sufficient disposable income to afford the repayments.

When Miss O complained to our service the investigator upheld the complaint. They said that the information gathered by Everyday Loans at the time of lending showed Miss O was having money problems and that it had increased her overall indebtedness. So, they thought Everyday Loans hadn't met its obligations to check Miss O could sustainably repay either loan.

Everyday Loans accepted the investigators findings in relation to Loan 2 but not Loan 1. It said Loan 1 was for the purpose of repaying Miss O's defaulted credit card accounts and providing a fresh start given she'd only defaulted on these because she'd lost her job. It said all lending increases indebtedness because interest is included.

Miss O didn't accept Everyday Loans' offer to compensate her only in relation to Loan 2 and so the complaint has been passed to be to decide.

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.

Having done so, I'm upholding this complaint for similar reasons to the investigator.

The relevant regulations and guidance are included in the Financial Conduct Authority's Consumer Credit Sourcebook (CONC). Everyday Loans was entering a regulated credit agreement and it was required to take reasonable steps to be satisfied Miss O would be able to make repayments sustainably without having to resort to further finance.

Checks 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.

Here, Everyday Loans did undertake such checks, and these identified that Miss O had a default applied for £414 in March 2017 – three months prior to Loan 1. And a default on another account in December 2015 for £369. Everyday Loans also reviewed Miss O's bank statements and identified that Miss O had paid her mother more than the declared amount on her income and expenditure – their notes say Miss O clarified she was repaying her mother for money borrowed. Miss O's statements also show the account entering her overdraft and direct debits being returned. I think this shows Miss O was already having money problems.

Everyday Loans has said Miss O's default was caused by her losing her job, but the documents Loan 1 was based on say she was employed for over 3 years. I haven't seen any evidence to support that this was why she had defaulted on either account. Everyday Loans says that settling the defaulted debts would have given Miss O a fresh start. While settling these accounts would have improved matters, these defaults would still have remained on her record for six years. Everyday Loans says it calculated Miss O had a disposable income of £161.64 prior to taking out Loan 1. If this was the case, Miss O could have settled her defaulted debts in less than 5 months, and arguably would have already been doing so given it's said this was her intention.

Everyday Loans was required to consider the sustainability of Miss O repaying the loan – Loan 1 was for 24 months and had a total repayment of £2757.12. This significantly increased her indebtedness from £783 and extended the time it would have taken her to repay her debts.

So given Miss O's existing money problems, I don't think the information Everyday Loans had at the time of lending showed Miss O could sustainably repay Loan 1 or that it would have put her in a better position as it has suggested.

Everyday Loans has agreed that it should not have provided Loan 2 and so I won't go into as much detail on this. But I agree it was not provided responsibly. Everyday Loans would have seen from Miss O's credit file that she had not used Loan 1 to settle her defaulted accounts. This shows that her financial position had not improved.

Loan 2 consolidated Loan 1 but had a higher interest rate, lengthened the time she would be repaying for and increased her indebtedness to £6261.60.

So, I think the information Everyday Loans had at the time of both loans showed Miss O was unlikely to be able to sustainably repay them.

Putting things right

When considering how to put matters right, I've taken into account the fact Miss O has had the benefit of the loan funds. It isn't possible to put Miss O back in the position she would be in had Everyday Loans not provided the lending, so I think a fair way to put matters right is for Everyday Loans to remove any interest or charges applied to the loans and amend Miss O's credit file.

My final decision

My final decision is that Everyday Lending Limited (trading as Everyday Loans) should do the following in relation to both loans:

1. Refund all the interest and charges Miss O has paid to date.

2. Where the borrowing is still in place, reduce the outstanding capital balance by the amount calculated at Step 1.

3. If, after Step 2, there remains an outstanding capital balance, Everyday Lending Limited should ensure that it isn't subject to any historic or future interest and/or charges. But if Step 2 leads to a positive balance, the amount in question should be given back to Miss O and 8% simple interest* should be added to the surplus.

4. Remove any adverse information recorded on Miss O credit file as a result of the loans.

*HM Revenue & Customs may require the business to take off tax from this interest. If it does, the business must give the Miss O a certificate showing how much tax it's taken off if she asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss O to accept or reject my decision before 27 April 2022.

Stephanie Mitchell
Ombudsman