

The complaint

Mr K complains that Everyday Lending Limited (“ELL”) lent to him in an irresponsible manner. He also complains that the lender failed to provide him with information about the terms of the loan and that it failed to treat him fairly when he faced problems repaying the loan.

What happened

I issued a provisional decision on this complaint in September 2021. In that decision I explained why I didn’t think the complaint should be upheld. Both parties have received a copy of the provisional decision but, for completeness, I include some extracts from it below. In my decision I said;

Mr K was given a single loan by ELL in September 2018. He borrowed £2,500 and agreed to repay the loan in 24 monthly instalments. Mr K faced problems repaying his loan and a balance remained outstanding when he made his complaint.

As well as his complaint about the original lending decision, Mr K has complained about how ELL treated him when he faced financial difficulties. In particular he says that the lender contacted his sister, providing details of his finances. And it made repeated attempts to contact him by telephone, including calling his work, when he had requested all contact be made in writing.

ELL gathered some information from Mr K before it agreed the loan. It asked him for details of his income, and his normal housing costs. It then used some industry statistical data to estimate the remainder of Mr K’s expenditure. It checked his credit file to assess how much he was repaying to other creditors and how he’d managed credit in the past. And it looked at Mr K’s bank statements to verify the information he’d provided about his finances.

Mr K was entering into a significant commitment with ELL. He would need to make monthly repayments for a period of two years. So I think it was right that ELL wanted to gather, and independently check, some detailed information about Mr K’s financial circumstances before it agreed to lend to him. I think that the checks I’ve described above were sufficient for ELL to achieve that aim – I think the checks ELL did were proportionate.

But simply performing proportionate checks isn’t always enough. A lender also needs to react appropriately to the information shown by those checks. Those results might sometimes lead a lender to undertake further enquiries into a consumer’s financial situation. Or, in some cases, the results might lead a lender to decline a loan application outright. So I’ve looked at the results of ELL’s checks to see whether it made a fair lending decision.

I don’t think that it was unreasonable for ELL to rely on some statistical data to help estimate Mr K’s expenditure. He’d explained that he was living at home with his parents, and wasn’t paying board or rent. So I think it likely that any statistical data

might have overestimated Mr K's normal expenditure as he appears to have had little, or no, housing related costs. Mr K's circumstances did differ a little from the norm since he was paying maintenance to an ex-partner in respect of a child, and he was paying childcare costs as well. But ELL accounted for those separately when it looked at Mr K's disposable income.

ELL's estimates of Mr K's disposable income suggested that he would have sufficient income each month to afford the new loan repayment, after taking account of the childcare costs, the estimates of his living expenses, and the amounts he was paying each month to other creditors. So I don't think it was unreasonable for ELL to conclude that Mr K would be able to afford his repayments.

But, there was further information shown by the credit check and Mr K's bank statements that I think ELL needed to consider carefully.

Mr K's bank statements showed that he was making a number of regular token payments to debt collection companies. Those would suggest that Mr K had faced problems managing his finances in the past and had not yet repaid the outstanding debts. Experience might suggest that consumers who have faced problems managing their finances in the past are more likely to do so again in the future.

The credit check results that ELL received added a little more information about the financial problems Mr K had faced. They showed that around three years earlier he had defaulted on a loan leaving a large outstanding balance. And they show that Mr K had defaulted on a much smaller overdraft on his bank account around a year before. But more recently Mr K's finances appear to have been on a much more stable footing.

Mr K didn't appear to have been making use of any other high cost, or short term, lending at the time he asked for this loan. It is true that he held a number of credit cards, and on some his monthly balances were approaching his credit limit. But from the evidence of his bank statements the monthly repayments he was making were significantly in excess of the minimum he'd be required to repay under the credit agreements.

Mr K's bank statements showed a large number of unpaid transactions. But, as ELL annotated during its checks, the majority of those items didn't appear to have been returned unpaid as a result of a lack of funds. Instead it seems they were returned for other reasons – most likely a lack of appropriate authorisation such as a direct debit mandate. So I don't think those unpaid items should have caused the lender much concern. And there didn't appear to be any other significant problems such as excessive, or increasing, use of an overdraft.

On balance, although they raised some concerns, I don't currently think that the results of ELL's proportionate checks should have led the lender to conclude that Mr K was likely to face problems repaying the loan in a sustainable manner. So I don't currently think ELL was wrong to give this loan to Mr K.

I've looked at the credit agreement that Mr K signed when he first took out the loan. That agreement, in a standard form, provided him with information about the amount he was borrowing and what he would need to repay, both in terms of the monthly cost, and the total cost over the loan term. So I can't agree that ELL failed to provide Mr K with the necessary information about his loan.

When Mr K took out the loan he provided ELL with details of three family members

that the lender could contact if it had been unable to reach Mr K for a period of seven days. And he gave the lender details of his work telephone number too. So I don't think it was unreasonable, when Mr K failed to make the repayments that were due, that ELL tried to get in touch with him. And when those initial attempts failed, it doesn't seem unreasonable for ELL to try the other means it had of contacting Mr K, or asking a relative to ask Mr K to get in touch.

I appreciate that Mr K asked ELL to stop contacting him by telephone. And I don't think that is an unreasonable request, particularly given the nature of Mr K's employment. But to balance that request I think Mr K also had a responsibility to respond promptly to any correspondence he might receive from the lender, and to keep the lender updated about any changes to his financial circumstances. I don't think it is wrong for a lender to expect a consumer to meet the repayments they had agreed to make, or to provide clear reasons, perhaps supported by independent evidence, of the reasons why the repayments might not be met.

When a consumer says they are facing financial difficulties the regulator would expect ELL to take steps to ensure that the borrower is treated fairly, with forbearance and with due consideration. But it is my understanding that the regulator's guidance isn't intended to leave debts outstanding for an indefinite period of time. Instead the requirement for lenders to show forbearance and due consideration to consumers who are facing financial difficulties is to allow a reasonable period of breathing space for consumers, facing an unexpected fall in their disposable income, to review their options. I haven't seen anything that makes me think that ELL treated Mr K unfairly at that time.

So in summary, although I appreciate my provisional decision will be disappointing for Mr K, I don't currently think ELL was wrong to give him the loan. I think ELL provided him with appropriate information about the terms of his borrowing. And I haven't seen anything to make me think ELL treated Mr K unfairly when he faced problems making his repayments.

I invited both parties to provide us with any further comments or evidence in response to my provisional decision. ELL has said that it doesn't have anything further to add to the case. Mr K hasn't responded to my provisional findings.

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.

Given that neither party has provided me with any new evidence or further comments I see no reason to alter the conclusions I reached in my provisional decision. I don't think ELL was wrong to give the loan to Mr K. I think ELL provided him with appropriate information about the terms of his borrowing. And I haven't seen anything to make me think ELL treated Mr K unfairly when he faced problems making his repayments.

My final decision

For the reasons given above, and in my provisional decision, I don't uphold the complaint or make any award against Everyday Lending Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 15 November 2021.

Paul Reilly
Ombudsman