DRN-3205570

The complaint

Mrs G has said that Everyday Lending Limited (trading as Everyday Loans) lent to her irresponsibly. Mrs G has said she was accepted for an unsecured personal loan, when Everyday should have known this wouldn't be affordable for her.

What happened

In August 2019, Mrs G applied for a loan with Everyday. Mrs G said she was looking to lend a lower amount – around £6,000, but Everyday said it could lend her £10,000. So, she applied for this. Everyday agreed to lend the £10,000 Mrs G asked for. The loan agreement was for a period of 60 months – with Mrs G due to pay back £21,868.80 by the end of the term. The monthly payment towards the loan was £364.48, and the APR of the loan was 43.8%.

Mrs G feels Everyday did the wrong thing in lending to her. She's explained that at the time she applied for the loan her finances were unstable, and she was in a vulnerable situation. Mrs G said she was using regularly using payday lenders, living in her overdraft and only making the minimum payments on her credit cards. Mrs G said she had a high level of borrowing and was dealing with an addiction to gambling. And that if Everyday had considered her circumstances further it would have known it shouldn't lend to her.

As Mrs G was unhappy, she raised a complaint with Everyday. It looked into this, and responded to Mrs G. It said that the checks it completed when lending to Mrs G were reasonable and proportionate. It said that it believed Mrs G would have been able to make the loan repayments, without undue difficulty during the life of the loan, based on those checks.

Mrs G remained dissatisfied with Everyday's response. And so, she referred her complaint to this service for an independent review.

Our investigator considered this complaint and thought it should be upheld. He said that Everyday did complete a number of checks on Mrs G's income and expenditure, as well as her credit history. But that there was information these checks provided that were concerning. For example, he noted that the checks showed that Mrs G had 12 open credit accounts, with eight of these being open in the last three months. He also noted that Everyday had been told that some recent payday lending borrowed was for car insurance – suggesting that Mrs G was relying on credit to keep up with day-to-day living costs.

Our investigator noted other concerns, such as a high increase in lending, the bank statement Everyday considered not being up to the date of the lending, and the credit check showed Mrs G had other current accounts, which were sitting in their overdraft. He considered that these concerns should have led to further checks – which he thought would have shown that lending would not be responsible in the circumstances, for example because of a large amount of gambling transactions he had seen on other bank statements.

Everyday didn't agree. It said:

- Mrs G had a monthly income of around £3,000 a month, plus an income from a second property, which was providing her with £380 a month.
- The reason Mrs G's credit had increased in the previous three months before taking the loan with Everyday was because she had taken out a hire purchase agreement for £22,314.
- Mrs G was taking out the Everyday loan to consolidate two of her credit cards with the largest amount owing on them – meaning she would be £217 better off each month than she had been before taking the loan.
- It couldn't see Mrs G had 12 open account prior to the loan – it could see settled Payday loans prior to the account with Everyday being opened. And that at the time of the lending Mrs G only had two payday loans outstanding – which she had said was for her car insurance.
- Mrs G was aware of what she was taking it and must take some responsibility for this. It thought Mrs G was fully aware of her finances at the time of the lending, and how this was being spent.
- The bank statement Mrs G provided didn't show gambling transactions.

Because Everyday disagreed, this complaint has been referred to me 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've decided to uphold this complaint. I've explained why below.

It's important to highlight when coming to my decision I've taken into account the relevant law, rules and guidance in relation to concerns about irresponsible lending. And, I've needed to consider the below issues:

- Did Everyday complete reasonable and proportionate checks, to satisfy itself that Mrs G would be able to make repayment of the loan in a sustainable way?
- If Everyday did complete the above – was a fair decision made, in respect of whether to lend to Mrs G?
- It Everyday didn't complete the above – would reasonable and proportionate checks have shown Mrs G would have been able to make repayments in a sustainable way?
- Did Everyday act unfairly or unreasonably towards Mrs G in any other way?

I've done this in relation to the loan provided to Mrs G in August 2019.

Reasonable and proportionate checks?

In August 2019, Everyday was required to carry out a reasonable assessment of whether Mrs G could afford to make the loan repayments in a sustainable way. And when carrying out checks to make sure this was the case, the checks had to be 'borrower focused.' So, this means Everyday had to consider the impact the lending would have on Mrs G – not just how likely it was that Everyday would receive its money back by the end of the term.

As above, Everyday also had to make sure the checks were 'proportionate' to the circumstances of the loan. Whether a check is proportionate will depend on the circumstances of the loan. So, checks could include a number of things, including – but not limited to – the particular circumstances of the borrower (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 were seeking.

Mrs G was borrowing over five years, and based on the APR rate for the loan, would be repaying over double the amount she'd borrowed. So, the checks Everyday completed needed to assure itself that Mrs G could make the repayment of £364.68 for this period of time.

So, I've considered this in relation to the loan agreed in August 2019. To do this, I've looked at what checks Everyday completed, and what information it gathered at the time of lending, to see whether the checks it made were proportionate enough for Everyday to be confident the lending would be sustainable for Mrs G.

And having done this, I'm not satisfied Everyday completed proportionate checks, before agreeing to lend to Mrs G in this instance.

I've seen what Everyday considered when thinking about Mrs G's income at the time. It had details of Mrs G's occupation, and where she worked. And Everyday did call the place where Mrs G was employed to check she worked there. In addition to this, Everyday used standard industry tools, which look to see whether any disclosed income is consistent with financial data held on the consumer. And it was. The information came back noting Mrs G's income of around £3,545 a month.

Everyday had seen a bank statement noting Mrs G's income from her job in August 2019 was £3,165, and it says it was told Mrs G had a second income from another property she had – which was £380. I can't see this second income was verified through bank statements for example. But it's consistent with what the above financial data showed. Given the above, I'm satisfied Everyday took reasonable steps to understand Mrs G's income.

In terms of expenditure – I don't think Everyday did enough. Everyday did use Office of National Statistics data, as well information as what Mrs G said her rent was, to calculate her living expenses. And it did complete a search of the credit she had outstanding. But I think the level of credit was concerning and given this level of credit I think more should have been done to verifying Mrs G's living expenses, as well as whether she was overextended in terms of the amount of credit she already had.

Everyday reviewed one bank statement prior to agreeing the loan. This statement showed Mrs G was making use of payday loans. Everyday asked Mrs G about this, and she explained this was for a car insurance payment. I think this suggests potential reliance on short term, high interest loans for some living expenses – and given Mrs G's income should have been enough to cover her living expenses, but clearly wasn't doing this, I think this should have led Everyday to ask for further information on Mrs G's living expenses.

In addition to the above, the bank statement showed that Mrs G took out a payday loan with one provider, paid it off, and then took a borrowing with the same provider again, in the same month. And this was the case with two lenders.

The affordability check Everyday carried out showed Mrs G had used 84% of her total credit limit – over six credit cards. In addition to this, she had significant other borrowing, aside from her mortgage and car finance. Mrs G's total monthly payments, excluding the two credit cards she was due to consolidate, were a significant proportion of her monthly income. This included owing funds for some loans, mail order accounts, and an additional current account to the one she provided a bank statement for, showing she was in her overdraft on that account, by £2,499.

I think the above information the checks Everyday raised significant concerns that Mrs G could make repayments for the loan she was applying for sustainably. And based on this information alone, I don't think Everyday came to a fair decision to lend – and acted irresponsibly on accepting the loan solely on the information it had.

Given the above, I don't think Everyday made a fair decision to lend. And I don't think its checks were proportionate in the circumstances. It should have asked for more information if it wanted to consider lending to Mrs G.

Would reasonable and proportionate checks have shown Mrs G would have been able to make repayments in a sustainable way?

I think the checks Everyday completed already showed significant concerns in lending to Mrs G. And it shouldn't have done so, based on the information it had. But I've also thought about whether, if more proportionate checks were carried out, this would have shown Mrs G could make the repayments in a sustainable way. And I don't the checks would have shown this.

I appreciate that different checks may show different things. But Mrs G has provided bank statements for the other current account she had. At the point of applying for a loan with Everyday this overdraft was almost exhausted. And there was no action on the account in the few months prior to the loan – it sat in its overdraft. Based on what I've seen, if more proportionate checks were carried out into Mrs G's finance I don't think these would have provided any reassurance that Mrs G could in fact repay the loan sustainably. And therefore, the funds shouldn't have been lent.

Mrs G has also said she was struggling with a gambling addiction at the point she was applying for the loan. I've seen on Mrs G's current account (the one Everyday didn't review) that Mrs G spent significant amounts on gambling just before taking out the loan. For example, on 19 August 2019, when Mrs G spent £500 on gambling websites in one day. It isn't clear that Everyday would have seen the extent of Mrs G's gambling if it had completed further checks. But, as above, Everyday should have seen that Mrs G was at risk of not being able to repay the loan sustainably as a result of the issues the checks did show.

Was a fair decision made?

Overall, I don't think Everyday made a fair decision to lend to Mrs G on this occasion.

The information Everyday did gather showed significant concerns with Mrs G's ability to manage further credit. And proportionate checks weren't completed to satisfy Everyday that Mrs G could pay back a further loan in a sustainable way. If Everyday had considered the information it did gather fairly, and had asked further questions, I'm satisfied it ought not to have made the decision to lend.

My final decision

Given the above, my final decision is that I uphold this complaint. I think it's fair that Mrs G repay the principal amount she borrowed. But Mrs G has paid interest and charges on a loan that shouldn't have been provided to her. So, I require Everyday Lending Limited to:

- Remove all interest and charges from the loan and treat all the payments Mrs G made as payment towards the capital.

- If reworking Mrs G’s loan account results in her having effectively made payments above the original capital borrowed, then Everyday should refund these overpayments with 8% simple interest on the overpayments from the date they would have arisen to the date of settlement*

- If reworking Mrs G’s loan account leaves an amount of capital still to be paid, then Everyday should take a sympathetic view when seeking to agree an affordable repayment plan with Mrs G for the revised balance.

- Remove any adverse information recorded on Mrs G’s credit file in relation to the second loan.

*HM Revenue & Customs requires Everyday to deduct tax from this interest. Everyday should give Mrs G a certificate showing how much tax it’s deducted, if she asks for one.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs G to accept or reject my decision before 5 April 2022.

Rachel Woods
Ombudsman