DRN-3219506

The complaint

Miss A says Everyday Lending Limited trading as Everyday Loans (Everyday) irresponsibly lent to her.

What happened

This complaint is about one loan Everyday provided to Miss A in January 2019. Miss A borrowed £5,000 and she was due to make 48 monthly repayment of £233.64. The total she would repay was £11,214.72. Miss A has been unable to fully repay this loan.

Our adjudicator upheld Miss A's complaint because she thought Everyday shouldn't have given her the loan. This is because Miss A already had a significant amount of other debt when she started the loan, and so she wouldn't be able to make the new loan repayments sustainably. And this would still be the case even if Miss A used the new lending for debt consolidation.

Everyday disagreed, it said that her debt repayment to income ratio was only 35% after she had repaid some of her other debts. And her credit card may've taken longer to repay if she had she only paid the minimum that was due.

As no agreement has been reached the complaint was passed 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.

Taking into account the relevant rules, guidance and good industry practice, I think the overarching questions I need to consider in deciding what's fair and reasonable in the circumstances of this complaint are:

- Did Everyday, each time it lent, complete reasonable and proportionate checks to satisfy itself that Miss A would be able to repay in a sustainable way? If not, would those checks have shown that Miss A would've been able to do so?
- Did Everyday act unfairly or unreasonably in some other way?

If I determine that Everyday did not act fairly and reasonably in its dealings with Miss A and that as a result he lost out, I will go on to consider what is fair compensation.

The rules and regulations in place required Everyday to carry out a reasonable and proportionate assessment of Miss A's ability to make the repayments under this agreement. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower" focused – so Everyday had to think about whether repaying the loan would be sustainable and/or cause significant adverse consequences for Miss A. In practice this meant that business had to ensure that making the payments to the loan wouldn't cause Miss A undue difficulty or significant adverse consequences.

In other words, it wasn't enough for Everyday to simply think about the likelihood of it getting its money back, it had to consider the impact of the loan repayments on Miss A. Checks also had to be "proportionate" to the specific circumstances of the loan application.

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 Miss A's complaint.

Everyday has provided evidence to show that before lending it looked at two months of bank statements and did a credit and employment check. It also asked Miss A her about her income and expenditure. Based on those checks Everyday thought it was fair to lend.

It's not disputed that Miss A had taken a large amount of other credit before she took this loan and some of this was high cost credit. She also had significant credit card balances which were also an expensive from of borrowing. Everyday says that this new loan was to help Miss A repay her existing lending and reduce her reliance on more expensive forms of credit. It was to repay two credit card balances that Miss A had. I've looked to see if what Everyday says is reasonable.

I can accept this debt consolidation may have meant that these debts were repaid sooner, and so may have been less expensive overall, although I can't be certain of this.

But our adjudicator outlined the new loan repayments were slightly higher than the amounts Miss A was repaying to these credit cards. So, if money was tight for Miss A then the new loan would potentially cause her problems. And I think this was the case here.

Miss A had an income of £1,413 and her normal expenditure was recorded as being £827. Leaving her £586 a month. But she would repay at least a further £500 towards credit overall when the new loan was started, if she paid the minimum amount to her remaining credit cards. So, the amount of spare money Miss A had had was very low over the four-year term of the loan. And she would have very little left over for unforeseen expenditure, or anything else she may need above her ordinary bills. I don't think this was reasonable here.

So, I don't think it's fair to say that the information Everyday had makes it safe to assume Miss A would be able to repay enough of her existing debts for this loan to have made a difference. It looks like her financial situation would have remained precarious after this loan.

So, I don't think that Everyday could say with any degree of confidence that taking the new loan would allow Miss A to make the loan repayments sustainably. And I don't think it was responsible to lend.

And this was borne out going forward. Miss A was unable to repay this loan and I understand a significant balance still remains on it. So, it's clear that this loan didn't improve her circumstances enough to make a lasting difference. So Everyday needs to put things right.

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

Putting things right

Everyday must now:

- Remove all interest, fees and charges applied to the loan.
- Treat any payments made by Miss A as payments towards the capital amount of £5,000.
- If Miss A has paid more than the capital then any overpayments should be refunded to her with 8%* simple interest from the date they were paid to the date of settlement.
- But if there's still an outstanding balance, Everyday should come to a reasonable repayment plan with Miss A.
- Remove any adverse information about the loan from Miss A's credit file.

*HM Revenue & Customs requires Everyday to take off tax from this interest. Everyday must give Miss A a certificate showing how much tax it's taken off if she asks for one.

My final decision

For the reasons given above, I'm upholding Miss A's complaint. Everyday Lending Limited should put things right for Miss A as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 18 April 2022.

Andy Burlinson
Ombudsman