DRN-3232703

The complaint

Miss L says Everyday Loans Limited (Everyday) irresponsibly lent to her. She says she already had a large amount of other credit and she was trapped in a cycle of using high interest loan companies. She says that Everyday should have seen this and not provided her with this loan.

What happened

This complaint is about one loan Everyday provided to Miss L in March 2018. She borrowed £15,000 and she was due to repay £471.78 over 48 months. She would repay a total of £22,396.32. At the time of complaint Miss L was still repaying this loan.

Our adjudicator upheld Miss L’s complaint. She thought that Everyday shouldn’t have given the loan to Miss L. This was because she already had a large amount of other credit and so it was likely she would need to borrow again to make the loan repayments. There were signs of repayment problems.

Everyday disagreed. It said Miss L’s overdraft usage fees and the amounts she was repaying to a debt recovery service were small. The loan was taken to consolidate some other debt and it improved Miss L circumstances by reducing her monthly repayments.

As no agreement was reached the complaint has been passed to me, an ombudsman, to issue a final decision.

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 L would be able to repay the loan in a sustainable way? If not, would those checks have shown that Miss L 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 L and that as a result she 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 L'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 L. In practice this meant that business had to ensure that making the payments to the loan wouldn't cause Miss L 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 L. 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 L's complaint.

Everyday has provided evidence to show that before lending it looked some bank statements. It also did a credit and employment check and asked Miss L her about her income and expenditure in some telephone calls. And these checks seemed to be fairly detailed. Based on those checks Everyday thought it was fair to lend.

It's not disputed that Miss L had taken large amount of other credit before she took this loan. Some of this was high cost credit. She also had significant credit card balances, a mortgage and a secured loan. Everyday says that this new loan was to help Miss L repay this lending and reduce her outgoings. I've looked to see if what Everyday says is reasonable.

I do accept that this consolidation may have led to Miss L paying a lower amount each month. But it seems that the loan was primarily arranged to bring together three other high cost credit loans. The settlement balances on these was around £13,400.

But as a starting point these loans were similar products, and Miss L would've already paid some of the interest and capital towards them. So, this new lending would lead to her effectively starting again with this money and it would be likely to cost her more overall. So, I’ve looked to see if consolidating this debt would’ve made enough of a difference to Miss L to make it worthwhile, despite this.

Having looked at everything I’ve been provided I don’t think it did. It’s not disputed that Miss L had a reasonable income as Everyday recorded. But Miss L had a significant amount of debt. She had a mortgage with a value of £113,000 and a further secured loan of around £20,000. She had high cost credit loans with balances of £21,000 and store and credit cards of £7,000.

And Miss L was clearly having problems repaying the debt she had, and she indicated this in one of the telephone calls she had with Everyday. But the new loans were only a minor change to her debt arrangements and, as I’ve said above, they weren’t likely to be the most cost effective way to repay her debt.

So, I don’t think it’s reasonable to say that the information Everyday had makes it safe to say Miss L would be able to repay enough of her existing debts for this loan to have made a difference. Put as simply as I can, she already owed too much for this new loan to do this. 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 new loan would allow Miss L to make the loan repayments sustainably. And I don’t think it was responsible to lend.

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

Everyday needs to put things right as I think it irresponsibly lent this loan.

Putting things right

Everyday should now:

- Remove all interest, fees and charges applied to the loan.
- Treat any payments made by Miss L as payments towards the capital amount of £15,000.
- If Miss L has paid more than the capital then any overpayments should be refunded to 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 L.
- Remove any adverse information about the loan from Miss L’s credit file.

*HM Revenue & Customs requires Everyday to take off tax from this interest. Everyday must give Miss L 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 L’s complaint. Everyday Loans Limited should put things right for Miss L as set out above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss L to accept or reject my decision before 19 April 2022.

Andy Burlinson
Ombudsman