DRN-3327929

The complaint

Mrs D complains that Everyday Loans Limited lent to her irresponsibly.

What happened

Everyday approved one loan for Mrs D in November 2019. It was for £3,001, scheduled to be repaid over four years (48 months) at just under £218 a month. Mrs D settled the account in April 2021. Soon after that she complained to Everyday which issued its final response letter (FRL) on 26 April 2021. Everyday explained what it had done before lending and did not uphold Mrs D's complaint.

Mrs D referred her complaint to the Financial Ombudsman and one of our adjudicators thought that Everyday had not accounted for her financial situation fully enough. So, she though that it needed to put things right for Mrs D.

Everyday did not respond to the adjudicator's view. Mrs D acknowledged it and did not appear to disagree with it. However, as the complaint remained unresolved it was passed 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.

We've set out our general approach to complaints about unaffordable/irresponsible lending - including all 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 questions I need to consider in deciding what's fair and reasonable in the circumstances of this complaint are:

- Did Everyday complete reasonable and proportionate checks to satisfy itself that Mrs D would be able to repay the loan in a sustainable way?
- If not, would those checks have shown that Mrs D would have been able to do so?
- Did Everyday act unfairly or unreasonably in some other way?

The rules and regulations in place required Everyday to carry out a reasonable and proportionate assessment of Mrs D's ability to make the repayments under the loan 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. In practice this meant that the business had to ensure that making the repayments on the loan wouldn't cause Mrs D undue difficulty or significant adverse consequences. That means she should have been able to meet repayments out of normal income without having to borrow to meet the repayments, without failing to make any other payment he had a contractual or statutory obligation to make and without the repayments having a significant adverse impact on his financial situation.

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 Mrs D**.** 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 the arguments, evidence and information provided in this context and what this all means for Mrs D's complaint.

Here, the 48 month term of the loan approved by Everyday indicates to me that the checks it carried out before lending had to be detailed and thorough. Essentially, it needed to carry out a full financial assessment of Mrs D's situation, as she was committing herself to four years of repayments of around £218 each month.

I can see that the checks Everyday carried out included obtaining and reviewing up to two months bank statements from Mrs D's primary bank account, obtaining and reviewing one month's payslip, conducting a credit search and carrying out a job check.

An element which was not satisfactory was that Mrs D had told Everyday she was wanting to use the new loan to improve her credit file, and was going to use the Everyday loan to consolidate some debts. But the capital appears to have been paid to Mrs D directly and so Everyday had not satisfied itself that she was going to pay down some other debt before embarking on its four year repayment commitment.

As its own credit searches had revealed she had an outstanding default and was repaying a debt collector £409 a month, and her copy bank statements reviewed before lending showed she was always paying overdraft charges, then I think that establishing which debt she was going to pay off was important. The information it had does, in my view, demonstrate that Mrs D was having trouble managing her money and had done so in the past. And so, I think Everyday ought not to have lent to her.

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

I think it is fair and reasonable for Mrs D to repay the principal amount that she borrowed, because she's had the benefit of that lending. Mrs D has already repaid it early. But as I have concluded Everyday shouldn't have provided the loan, it should look to remove the interest and fees from the amount paid under the loan agreement.

Everyday should:

- refund all interest, fees and charges on the loan;

  - pay interest* of 8% simple a year on any refunded interest, fees and charges from the date they were paid (if they were) to the date of settlement; and

  - remove any negative information about the loans from Mrs D's credit file.

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

My final decision

My final decision is that I uphold Mrs D's complaint and direct that Everyday Lending Limited does as I have directed above.

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

Rachael Williams
Ombudsman