DRN-3348183

The complaint

Mr G, through his representative, says Everyday Lending Limited (ELL), trading as Everyday Loans, lent to him irresponsibly.

What happened

Mr G took out four instalment loans from ELL. A summary of his borrowing follows.

loan	taken	repaid	value, £	term, months	monthly repayment, £	total repayable, £
1	24/11/2015	Mar-17	5,000	36	203.61	7,329.96
2	09/03/2017	Oct-17	8,000	36	390.56	14, 060.16
3	02/11/2018	Jan-20	2,500	18	208.62	5,006.88
4	19/02/2021	-	5,000	60	220.33	13,219.80

Mr G says ELL failed to carry out effective affordability checks, to review his personal circumstances in enough detail, and to provide adequate information about the loan.

Our adjudicator said Mr G's complaint should be upheld in respect of loans 1, 2 and 4 as ELL's checks showed Mr G was struggling to manage his money at these times and so there was a risk he would not be able to sustainably repay these loans.

ELL agreed with the assessment for loans 2 and 4 but said the purpose of loan 1 was to repay another loan and reduce Mr G's overdraft. So it had acted in good faith to help improve his financial circumstances.

As an agreement wasn't reached the complaint was passed to me to make a decision. I reached a different conclusion to the adjudicator and planned to uphold Mr G's complaint in full. So I issued a provisional decision - an extract follows and forms part of this final decision. As the parties agreed loans 2 and 4 should not have been given I focused my comments on loans 1 and 3. I asked both parties to send in any comments or new information by 3 March 2022.

Extract from my provisional decision

ELL asked for some information from Mr G before it approved the loans. It asked for details of his income and estimated his monthly costs using national statistics. It checked his salary against bank statements and also used these to verify certain costs. It reviewed his credit file at the time of each application to understand his credit history and existing commitments. It also asked about the purpose of the loans. They were all for debt consolidation, including where relevant his existing ELL loan. From these checks combined ELL maintains that Mr G had enough monthly disposable income to afford loans 1 and 3.

I agree with the adjudicator that the checks were proportionate, but I don't think ELL made fair lending decisions. I'll explain why.

Loan 1

ELL knew from its checks that Mr G already had a significant level of debt (£25,736); one of his credit cards was at its limit; he was £1,758.64 overdrawn and incurred nearly £100 of bank charges in the month before this application. I accept Mr G was consolidating some of his debt – a loan and a credit card, receiving £1,127 of the loan direct which ELL says was to reduce his overdraft. But this still left him reliant on his overdraft facility and needing to spend a significant portion of his monthly income on paying his debts.

So I think ELL ought to have realised there was a risk Mr G would struggle to sustainably repay the loan over its three-year term. ELL could see from Mr G's bank statement that he had paid off a payday loan the previous month suggesting he was already struggling to manage his money and having cash flow issues. ELL was obliged to check Mr G could sustainably repay the loan, and not just consider the monthly pounds and pence affordability. Based on the facts it had I think it should have thought it likely Mr G would need to borrow to repay or suffer some other adverse financial consequence.

It follows I think ELL was wrong to give loan 1 to Mr G.

Loan 3

When Mr G applied for loan 3, I'm not persuaded that his finances were suitably stable to take on further borrowing. It seems that this loan was taken to repay two payday loans – ELL's Go Live Audit Report shows he had three at the time of application, but it could see from his back statement that he had a fourth payday loans taken out on 17 September 2018. I think by this stage it was likely Mr G was in a harmful cycle of borrowing to repay and ELL ought to have identified that further lending would most likely prolong Mr G's reliance on high cost credit.

It could see from his bank statement his overdraft was still around £1,700 suggesting he was persistently reliant on this debt to make ends meet. He had a second bank account that was around £500 in credit, but this was after receiving £825 from payday lenders and £250 that seems to be informal borrowing from a family member. So again, I think it was clear Mr G was having problems managing his money and would most likely not be able to sustainably afford more debt. As with loan 1, even after repaying some of his debt, Mr G would still need to use a significant share of his income to service his debt each month suggesting a risk of unsustainability.

It follows I think ELL was wrong to give loan 3 to Mr G.

Did ELL act unfairly or unreasonably in some other way?

I don't find that it did. Mr G said he was given inadequate information about the loans. But the loan agreements Mr G signed made clear the costs and terms of the loan. He also said wasn't asked enough about his personal circumstances but as I've set out above I find the lender's checks were proportionate.

In summary I am planning to uphold Mr G's complaint about all four loans.
I then set out what ELL would need to do if I went on to uphold the complaint.

Neither party responded to my provisional 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.

Our approach to unaffordable/irresponsible lending complaints is set out on our website and I've followed it here.

As neither party sent in any comments or new evidence I have no reason to change the findings or outcome I set out in my provisional decision.

It follows I think ELL was wrong to give all four loans to Mr G.

Putting things right

It's reasonable for Mr G to repay the capital amount that he borrowed as he had the benefit of that money. But he has paid interest and charges on loans that shouldn't have been given to him. So he has lost out and ELL needs to put things right.

It should:

- For loans 1 and 2 add up the total amount of money Mr G received as a result of having been given both loans. The repayments Mr G made should be deducted from this amount.
- For loans 3 and 4 refund all the interest and charges – so add up the total Mr G repaid for each loan and deduct the sum from the capital amount of the respective loan.
- If reworking Mr G's loan accounts results in him having effectively made payments above the original capital borrowed, then ELL should refund these overpayments with 8% simple interest calculated on the overpayments, from the date the overpayments would have arisen, to the date of settlement*.
- If reworking Mr G's loan accounts results in an outstanding capital balance, ELL should try to agree an affordable repayment plan with Mr G.
- Remove any adverse information recorded on Mr G's credit file in relation to the loans.

*HM Revenue & Customs requires ELL to deduct tax from this interest. ELL should give Mr G a certificate showing how much tax it's deducted, if he asks for one.

My final decision

I am upholding Mr G's complaint. Everyday Lending Limited, ELL, (trading as Everyday Loans) must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 1 April 2022.

Rebecca Connelley
Ombudsman