The complaint

Mr C complains that Everyday Lending Limited (trading as Everyday Loans) was irresponsible to lend to him.

What happened

Mr C took out a loan with Everyday Loans on 17 July 2019. He borrowed £3,000 and was due to repay £274.26 monthly for 18 months, until 1 January 2021.

Mr C says that Everyday Loans did not carry out proper checks when it agreed to lend to him. He said he had a serious gambling problem at the time and that Everyday Loans should have seen there was an issue from his bank statements. Mr C adds that he incurred charges on his account when he was told that wouldn't be the case and that Everyday Loans has done nothing to help him despite knowing about his financial problems.

Everyday Loans says Mr C complained that his branch did not provide a settlement figure when requested. It says this was because it needed to take into account the Covid deferment before it could generate an accurate figure and that Mr C declined the deferment on 30 October 2020. However, Everyday Loans confirmed the settlement figure of £1,903.53 still stood and that no further interest would be applied to the account as it was moved to Recoveries on 29 December 2020. It adds that it was satisfied Mr C was treated fairly with regard to his gambling addiction.

Our adjudicator originally recommended the complaint should be upheld. She explained that Everyday Loans had not provided its business file for the affordability complaint and so, based on information provided by Mr C, she found there was evidence that Mr C was already struggling to manage his money at the time of the lending. She recommended that any payments made by Mr C should be deducted from the principal and that Everyday Loans should attempt to set up a suitable repayment plan for the remaining principal. She also said that any adverse information should be removed from his credit file.

Everyday Loans responded with its business file regarding the affordability complaint. It said it verified Mr C's income from bank statements and used them, and his credit file to confirm his mortgage and other credit commitments. Everyday Loans says that it used a statistical average figure for Mr C's other expenditure, and found the loan was affordable to him.

Following this new evidence, our adjudicator did not recommend the affordability complaint should be upheld. She was satisfied that Everyday Loans carried out proportionate checks and that there was nothing in the available information to indicate the repayments were unsustainable for Mr C. She explained that Mr C should submit a separate complaint about the mistreatment of his account.

Mr C responded to request information about the new evidence. He provided bank statements which showed frequent cash withdrawals, a car finance loan and credit card repayments.

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.

As the adjudicator explained, this decision will consider only the complaint about the affordability of the loan and whether it should have been approved. I understand Mr C also has a complaint about how his account was treated which will be considered separately.

With regards to the affordability complaint, I need to take into account the relevant rules, guidance and good industry practice.

The Financial Conduct Authority (FCA) was the regulator when Everyday Loans lent to Mr C. Its rules and guidance obliged it to lend responsibly. As set out in the regulator's Consumer Credit Sourcebook (CONC), this meant that Everyday Loans needed to take reasonable and proportionate steps to assess whether or not a borrower could afford to meet its loan repayments in a sustainable manner over the lifetime of the agreement.

CONC 5.2A.4R states that:

A firm must undertake a reasonable assessment of the creditworthiness of a customer before:

1. *entering into a regulated credit agreement; or*
2. *significantly increasing the amount of credit provided under a regulated credit agreement; or*
3. *significantly increasing a credit limit for running-account credit under a regulated credit agreement.*

Repaying debt in a sustainable manner was defined as being able to meet repayments out of normal income without the customer having to borrow to meet the repayments, without failing to make any other payment the customer has a contractual or statutory obligation to make and without the repayments having a significant adverse impact on the customer's financial situation (CONC 5.2A.12R).

In general, I'd expect a lender to require more assurance the greater the potential risk to the borrower of not being able to repay the credit in a sustainable way. So, for example, I'd expect a lender to seek more assurance, potentially by carrying out more detailed checks

- the *lower* a person'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 *longer* the term of the loan (reflecting the fact that the total cost of the credit is likely to be greater and the borrower is required to make payments for an extended period).

In addition, as per CONC 5.2A.16G (3): *For the purpose of considering the customer's income, it is not generally sufficient to rely solely on a statement of current income made by the customer without independent evidence (for example, in the form of information supplied by a credit reference agency or documentation of a third party supplied by the third party or by the customer).*

And CONC 5.2A.17R (2) says: *The firm must take reasonable steps to determine the amount, or make a reasonable estimate, of the customer's current non-discretionary expenditure.*

Bearing all of this in mind, in coming to a decision on Mr C's case, I have considered the following questions:

- Did Everyday Loans complete reasonable and proportionate checks when assessing Mr C's loan application to satisfy itself that she would be able to repay the loan in a sustainable way?
    - If not, what would reasonable and proportionate checks have shown?
- Did Everyday Loans make a fair lending decision?
- Did Everyday Loans act unfairly or unreasonably in some other way?

With regard to the first question, Everyday Loans has sent evidence that it obtained proof of Mr C's income, checked his credit file and reviewed his bank statements. So I'm satisfied that Everyday Loans carried out proportionate checks which showed:

- Mr C was using the loan to purchase a car;
- The lower of the two monthly incomes evidenced was £2,459.91 and his mortgage payment was £548.57;
- Mr C's other credit included:
    - Car finance with a balance of around £2,000 and monthly repayments of £288.70;
    - Three credit cards with a combined balance of £2,236;
- One defaulted account from February 2016, which was satisfied in November 2016;
- The average regular expenditure for someone in Mr C's circumstances was £743 per month.

I acknowledge that Mr C sent evidence that showed his car finance and credit card payments, but these had already been taken into account in Everyday Loans's affordability calculation, which estimated he had £800 of monthly disposable income before the additional loan repayment. Everyday Loans also questioned the multiple transfers between accounts and Mr C explained he was in the process of buying a house and the transfers were for the deposit, plus saving for a wedding.

Based on all the evidence Everyday Loans had, I can't see there was anything that should have prompted it to carry out further checks: Mr C's credit file showed no current financial difficulties and there was nothing to indicate his expenditure was significantly different to the estimate used by Everyday Loans. I accept there were a number of cash transactions on Mr C's bank statements, but I don't find it would have been proportionate to carry out the level of checks that would have been required to show that the money was used for gambling. Indeed, I'm satisfied that the first time Everyday Loans was made aware of Mr C's gambling was in an email he sent in September 2020.

In summary, I don't find Everyday Loans was irresponsible to lend to Mr C, but it still has an obligation to respond sympathetically to Mr C when setting up a repayment plan for the outstanding balance.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 19 April 2022.

Amanda Williams
Ombudsman