DRN-3394083

The complaint

Mrs F says Everyday Lending Limited (ELL), trading as Everyday Loans, lent to her irresponsibly.

What happened

Mrs F took out an instalment loan from ELL in 2017, and again in 2019. She complained to the lender that they were unaffordable and so mis-sold. ELL rejected her complaint, so Mrs F brought a complaint about the second loan to this service. She did not dispute the lender's decision about loan 1.

Loan 2 was taken out on 27 April 2019. It was for £5,000 over 36 months. The monthly repayment was £311.12 and the total repayable was £11,200.32. Mrs F says ELL's checks were not thorough enough, the second loan drove her into more debt as she had to take out other loans to get by and was always overdrawn.

The investigator did not uphold Mrs F's complaint. She found checks for both loans were proportionate, and ELL made fair lending decisions.

Mrs F disagreed. She said she had not complained to us about loan 1 and didn't dispute that finding. But for loan 2 she said her income and expenditure figures didn't match the investigator's and her actual disposable income was much lower. She had taken out a new credit card just before this loan and a large loan with a sister company of this lender at the end of October 2018. She asked why the lender relied on statistical data for her expenditure when it had actual data from her bank statements.

Mrs F asked for an ombudsman to review the complaint and so it was passed to me. As there is no dispute between the parties about loan 1, and Mrs F has been clear it isn't part of the complaint she wants us to investigate, I focused only on loan 2. I reached a different conclusion to the investigator, so I issued a provisional decision. An extract follows and forms part of this final decision. I asked both parties to send any comments and new evidence by 22 March 2022.

Extract from my provisional decision

ELL asked for some information from Mrs F before it approved the loan. It asked for details of her income and estimated her monthly costs using national statistics. It checked her salary against bank statements. It reviewed her credit file to understand her credit history and existing commitments. It also asked about the purpose of the loan which was for a wedding. From these checks combined ELL concluded that Mrs F had enough monthly disposable income to afford the loan.

I agree with the investigator that the checks ELL completed were proportionate, but I don't think it reacted appropriately to the data it gathered when it made its lending decision. I'll explain why.

For its affordability assessment ELL used national statistics to estimate Mrs F's expenses.

Whilst this can be a fair approach in certain circumstances, as Mrs F had provided bank statements I would expect ELL to use these to verify her expenses. The copies I have show transfers to a second account which Mrs F explains was a joint account used for bills – and that ELL had online sight of when she was applied in its branch.

I have no copy of what this showed ELL, but I can see that her essential living expenses combined with the transfers to the joint account were in excess of the assumption ELL used for her living costs. So I would have expected ELL to react to this information it gathered and ensure it understood Mrs F's actual living costs. Mrs F says had it done so it would have seen her total monthly expenditure was around £350 higher than the figure it was using, making the loan unaffordable.

As I can't know with certainty which bank statements ELL had access to at the point of application (the evidence it submitted suggests it was the two months prior to application for Mrs F's sole name account) I don't intend to set out what it should have calculated Mrs F's actual costs to be – suffice to say in the circumstances of this application it should have used actuals and made sure it understood the inter-account transfers. From Mrs F's testimony it seems most likely this would have led it to calculate a much lower level of disposable income. However I won't comment further on this as I think there is a more critical reason ELL should not have lent to Mrs F.

Mrs F used loan 2 to repay loan 1 and the remaining funds were for a wedding. From the credit check it completed ELL knew Mrs F would have ongoing monthly credit commitments of around £485. This was already a significant percentage of her monthly income (based on the £1,735 ELL used). By giving loan 2 ELL was increasing the amount of monthly income Mrs F would need to use to manage her debts to around 45% of her income. I think from this ELL ought to have realised there was a risk Mrs F would be unable to make her repayments sustainably over a three-year period. It could already see that her overall indebtedness had increased from £1,597 when she applied for loan 1 to £8,163 at the time of this application. So I find there were signs that Mrs F was starting to struggle financially, and that any further borrowing would most likely be harmful to her.

It follows I think ELL was wrong to give loan 2 to Mrs F.

I haven't seen any evidence that ELL acted unfairly towards Mrs F in any other way.

I then set out what ELL would need to do to put things right if I went on to uphold the complaint.

Both parties responded. ELL accepted my provisional decision. Mrs F re-iterated she had explained in previous emails that ELL could have reviewed her joint account in the branch and not only review her primary account.

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.

I note Mrs F's point that ELL could have reviewed her joint account statements but its failure to do so does not impact my conclusion as I am already upholding her complaint for the reasons as set out above.

As neither party supplied any new evidence, I have no reason to change the findings or outcome set out in my provisional decision. It follows I find ELL was wrong to give loan 2 to Mrs F.

Putting things right

It's reasonable for Mrs F to have repaid the capital amount that she borrowed as she had the benefit of that money. But she has paid interest and charges on a loan that shouldn't have been given to her. So she has lost out and ELL needs to put things right.

It should:

- Refund all the interest and charges on loan 2 – so add up the total Mrs F repaid and deduct the sum from the capital amount.
- If reworking Mrs F's loan account results in her 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 Mrs F's loan account results in an outstanding capital balance, ELL should try to agree an affordable repayment plan with Mrs F.
- Remove any adverse information recorded on Mrs F's credit file in relation to loan 2.

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

My final decision

I am upholding Mrs F'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 Mrs F to accept or reject my decision before 22 April 2022.

Rebecca Connelley
Ombudsman