DRN-3422383

The complaint

Mr B says Everyday Lending Limited (ELL), trading as Everyday Loans, irresponsibly lent to him.

What happened

This complaint is about a 24-month instalment loan for £2,000 that ELL provided to Mr B on 2 April 2015. The monthly repayments were £147.67 and the total repayable was £3,544.08.

Mr B says the lender did not complete proportionate checks to make sure the loan was affordable.

Our adjudicator upheld Mr B's complaint and thought ELL shouldn't have given the loan. ELL disagreed and so the complaint was passed to me.

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. Having carefully thought about everything, I think that there are two overarching questions that I need to answer in order to fairly and reasonably decide Mr B's complaint. These two questions are:

1. Did ELL complete reasonable and proportionate checks to satisfy itself that Mr B would be able to repay the loan in a sustainable way without experiencing significant adverse consequences?
   - If so, did it make a fair lending decision?
   - If not, would those checks have shown that Mr B would've been able to do so?
2. Did ELL act unfairly or unreasonably in some other way?

The rules and regulations in place required ELL to carry out a reasonable and proportionate assessment of Mr B'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 ELL had to think about whether repaying the loan would cause significant adverse consequences *for Mr B*. In practice this meant that business had to ensure that making the payments to the loan wouldn't cause Mr B undue difficulty or significant adverse consequences.

In other words, it wasn't enough for ELL to simply think about the likelihood of it getting its money back, it had to consider the impact of the loan repayments on Mr B. 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 Mr B's complaint.

ELL has provided evidence to show that before lending it asked for some information from Mr B. It asked for his monthly income and checked this against recent payslips. It estimated his living costs using national averages. It carried out a credit check to understand his credit history and his existing credit commitments. It reviewed a recent bank statement to check other credit commitments. Based on these checks ELL thought it was fair to lend.

I think these checks were proportionate, but I don't think ELL made a fair lending decision based on the information it gathered. I'll explain why.

ELL could see from its checks that Mr B would be left with less than £50 disposable income each month. I don't think this was enough to cover any unplanned and seasonal costs during the 24-month term of this loan. In addition, by approving this loan it increased the amount of monthly income Mr B would need to spend on servicing his debt to around a third of his incomings. So I don't find its decision was borrower-focused. Mr B was on a relatively low income and, given the circumstances set out above, I think ELL ought to have realised there was a risk Mr B would be unable to repay this loan sustainably over the two-year term of the loan.

ELL argues that we cannot solely consider disposable income as it had allocated £500 for Mr B's living expenses, as well as the cost of his existing credit. But we would expect a lender to consider an applicant's living costs – *in addition* to making sure an applicant would be left with a reasonable level of monthly disposable income. And that was not the case here.

It also says that his bank statement showed he had an average credit balance of around £400. But this was only one month, so might not have been representative. And ELL opted to use averages for outgoings in its affordability assessment - that's what its lending decision was based on. So I don't think it can fairly now defend its decision using a different approach. It says there were no signs of financial stress and I agree there was no adverse data on Mr B's credit check, but I think this loan created the risk that Mr B would go on to struggle financially for the reasons set out above. And ELL need to consider the likely impact on Mr B over the loan term to meet its regulatory obligations.

ELL also argues Mr B made all his payments on time, but it does not know how he funded his repayments (except the early settlement) so this does not change my conclusion.

It follows I think ELL was wrong to give this loan to Mr B.

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

Putting things right – what ELL needs to do

I think it is fair and reasonable for Mr B to repay the capital amount that he borrowed, because he had the benefit of that lending. But he has paid extra for lending that should not have been provided to him so ELL needs to put that right.

It should:

- refund all interest and charges Mr B paid on the loans;
- pay interest of 8% simple a year on any refunded interest and charges from the date
- they were paid to the date of settlement†; and
- remove any negative information about the loan from Mr B's credit file.

† HM Revenue & Customs requires ELL to take off tax from this interest. ELL must give Mr B a certificate showing how much tax it's taken off if he asks for one.

My final decision

I am upholding Mr B'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 B to accept or reject my decision before 31 May 2022.

Rebecca Connelley
Ombudsman