DRN-3424629

The complaint

Mrs S has complained that Everyday Lending Limited trading as Everyday Loans ("EDL") was irresponsible to have agreed credit for her.

What happened

EDL provided Mrs S with a loan of £2,000 in September 2019. The total amount of £3,870, including interest and charges, was to be repaid in 24 monthly instalments of £161 (figures rounded). I understand that the loan has been repaid.

Mrs S says that EDL was irresponsible to lend to her because she didn't have any money left each month and had to ask her family for help to meet her repayments.

One of our investigators looked into Mrs S's complaint and recommended that it be upheld. They found that EDL had been irresponsible when it agreed to lend to Mrs S because it should have seen from the information it had that she was having problems managing her existing debts, and so more credit was likely to cause her further problems.

EDL didn't accept this recommendation. It said that it had discussed Mrs S's existing credit commitments with her and its loan was to be used for consolidation. It also said Mrs S was managing her finances well, for example she was not using an overdraft facility, her account was always in credit, and her savings account had a healthy balance. EDL asked for the complaint to come to an ombudsman to review and resolve.

I issued a provisional decision on 11 March 2022 explaining why I thought Mrs S's complaint should be upheld. Mrs S agreed with my decision and EDL responded to say it had nothing further for me to consider. This is my final decision on this complaint and will be legally binding for both parties should Mrs S accept it.

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 mentioned Mrs S agreed with my provisional decision and continued to send us information following this. Having reviewed everything, my provisional conclusion remain unchanged. As before, I have concluded that Mrs S's complaint should be upheld and I will set out my reasoning again here.

As I'd said in my provisional decision, EDL will be aware of the relevant regulations so I will briefly summarise. EDL needed to check that Mrs S could afford to meet her repayments out of her usual means without having to borrow further, without missing any of her existing obligations and without experiencing significant adverse impacts. EDL was required to take reasonable steps to estimate Mrs S's income and (non-discretionary) expenditure, and to estimate any reductions in income where it was reasonably foreseeable that a reduction was likely. EDL also needed to have regard to any information of which it was aware at the time that might have indicated that Mrs S was in, had recently experienced or was likely to experience, financial difficulties.

The overarching requirement was that EDL needed to pay due regard to Mrs S's interests and treat her fairly. CONC 2.2.2G(1) gave an example of contravening this requirement as 'targeting customers with regulated credit agreements which are unsuitable for them by virtue of their indebtedness, poor credit history, age, health, disability or any other reason.'

With this in mind, my main considerations are did EDL complete reasonable and proportionate checks when assessing Mrs S's application to satisfy itself that she would be able to make her repayments without experiencing adverse consequences? If not, what would reasonable and proportionate checks have shown and, ultimately, did EDL make a fair lending decision?

EDL provided this Service with copies of the information it relied on in making its lending decision. This included information about Mrs S's income and expenditure, a check on her credit file, and payslips and bank statements for her sole current account and joint savings account. Having reviewed these I think that the assessment EDL carried out was proportionate to the circumstances.

However, this doesn't automatically mean EDL's lending decision was fair. In fact, as I will explain below, I've concluded that EDL's decision to lend wasn't fair on this occasion. EDL could see from the information it gathered that Mrs S wasn't managing to meet her existing commitments without difficulty and that agreeing this loan was likely to add to her debts and lead to adverse consequences for her.

Mrs S was earning approximately £2,040 a month comprising income and child benefit. EDL relied on data from the Office of National Statistics to estimate Mrs S's monthly outgoings at £820. It used her credit file data to estimate that she was spending about £665 on repaying existing credit commitments (excluding a recent short term loan) and concluded that Mrs S had a monthly surplus of about £550.

I've noted that Mrs S's outgoings came to more than the £820 EDL estimated. Her bank statements from the month of July 2019, for example, show spending of about £1,150 on food, insurance, petrol, and mobile bills. This doesn't include other retail spending.

Mrs S told EDL she wished to consolidate a short term loan and her credit card balances. I can see from EDL's assessment that these debts came to under £2,200. The assessment also shows that Mrs S would continue to pay about £620 a month on her other commitments, or about £780 including this new loan. In other words Mrs S would need to spend more than a third of her income each month to meet her ongoing debt repayments.

Altogether, I think EDL ought to have been concerned about Mrs S's ability to meet her repayments out of her existing means over the term of the agreement.

EDL says that Mrs S had a healthy balance in a savings account and while I can see many transfers back and forth between Mrs S's sole bank account and her joint savings account, it's clear to me that she was using this as a means of managing her money. The savings account statement covers about four months from May to August 2019 and the balance decreased to zero three times in this period. So I don't think Mrs S had access to an accumulated savings capital to help her meet her loan repayments.

EDL also knew that some of Mrs S's existing debts were being paid through a third-party debt collector, which suggests that she had problems meeting these. EDL says that it asked Mrs S about this and she said that these money problems stemmed from a period where she couldn't work due to ill health. However, EDL also knew that Mrs S was borrowing from short term lenders. The bank statements it had showed Mrs S borrowed £2,500 from Lender A (10 July) and used most of this to repay Lender B (12 July). She had borrowed again from Lender B on 26 July and said she would use some of the money from EDL to repay this lender. So I don't think EDL could reasonably accept that Mrs S's financial difficulties were behind her. It seems to me her difficulties were ongoing.

Having considered everything carefully, I am satisfied that EDL had enough information about Mrs S's circumstances, including her level of existing debt and the problems she had managing this, that it should not have agreed to lend to her on this occasion. It wasn't likely that Mrs S would be able to meet her repayments over the term of the loan without getting into further financial difficulty.

I understand that Mrs S did meet her repayments on this loan, but this doesn't automatically mean she managed to do so without difficulty. Mrs S explained that she had to rely on money from her family to help with her finances, and she's provided bank statements from after the loan was taken out which show personal deposits into her bank account. Mrs S also says her husband took out a loan to assist her. She provided screen shots of her online credit file which she says shows the loan her husband guaranteed – this was for £7,000 taken out the month before EDL's loan. Mrs S also told us that she took out a credit card in early 2020, which was also evidenced by a screen shot from her credit file.

Altogether, I think that EDL was irresponsible when it agreed to lend to Mrs S in September 2019 and that it needs to take steps to put things right for her.

Putting things right

Mrs S had the benefit of the money she borrowed so I think it's right that she repays this. However, I don't think she should be liable for any interest or charges associated with the loan as it was unfairly given. In order to put things right for Mrs S, EDL needs to:

a) Refund to Mrs S all payments she made above the amount of £2,000 she borrowed; and
b) Add 8% simple interest per annum to these overpayments from the date they were paid to the date of refund; and
c) Remove any adverse information about this loan from Mrs S's credit file.

*HM Revenue & Customs requires EDL to deduct tax from this interest. It should give Mrs S a certificate showing how much tax it has deducted, if she asks for one.

My final decision

For the reasons set out above, I am upholding Mrs S's complaint about Everyday Lending Limited trading as Everyday Loans and require it to put things right as I've outlined. Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 17 May 2022.

Michelle Boundy
Ombudsman