DRN-3439610

## The complaint

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

## What happened

This complaint is about a 24-month instalment loan for £2,000 that ELL provided to Ms G on 13 October 2015. The monthly repayments were £198.27 and the total repayable was £4,758.48.

Ms G says she was struggling financially when she was given the loan and had to borrow to make her repayments

Our adjudicator upheld Ms G's complaint and thought ELL shouldn't have given the loan. ELL disagreed, saying the loan improved Ms G's financial position as it allowed her to get out of the cycle of using payday loans, 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 Ms G's complaint. These two questions are:

1. Did ELL complete reasonable and proportionate checks to satisfy itself that Ms G 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 Ms G 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 Ms G'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 Ms G*. In practice this meant that business had to ensure that making the payments to the loan wouldn't cause Ms G 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 Ms G. 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 Ms G's complaint.

ELL has provided evidence to show that before lending it asked for some information from Ms G. It asked for her monthly income and checked this against a recent payslip. It estimated her living costs using national averages. It carried out a credit check to understand her credit history and her existing credit commitments. It reviewed recent bank statements to check certain costs like housing and 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 the lender made a fair lending decision based on the information it gathered. I'll explain why.

ELL could see from its checks that Ms G was using payday loans. It argues this loan was to break that cycle and improve her financial position. Whilst it seems she was going to settle one high-cost loan, the evidence ELL sent us shows it knew she would still have £429.73 of ongoing monthly credit commitments. By approving this loan it increased the amount of monthly income Ms G would need to spend on servicing her debt to around 30%. And it calculated she would only be left with £120.58 of disposable income. I don't think this was a borrower-focused decision given Ms G had two young dependents. In these circumstances I think ELL ought to have realised there was a risk Ms G would be unable to repay this loan sustainably over the two-year term of the loan.

It follows I think ELL was wrong to give this loan to Ms G.

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 Ms G to repay the capital amount that she borrowed, because she had the benefit of that lending. But she has paid extra for lending that should not have been provided to her so ELL needs to put that right.

It should:

- refund all interest and charges Ms G 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 Ms G’s credit file.

† HM Revenue & Customs requires ELL to take off tax from this interest. ELL must give Ms G a certificate showing how much tax it’s taken off if she asks for one.

## My final decision

I am upholding Ms 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 Ms G to accept or reject my decision before 31 May 2022.

Rebecca Connelley
**Ombudsman**