DRN-3481595

The complaint

Miss M complained that Everyday Lending Limited (trading as Trusttwo) lent to her irresponsibly and provided her with a loan that was unaffordable.

What happened

Trusttwo provided a loan to Miss M as follows:

Date taken	Amount	Term	Monthly repayment	Total amount repayable	Loan Status
December 2019	£4,500	60 months	£148.56	£8,913.60	outstanding.

One of our adjudicators looked into the complaint. He didn't think Trusttwo should have provided Miss M with the loan and he set out the steps that needed to be taken to put things right.

Trusttwo disagreed with the adjudicator's assessment.

In summary, Trusttwo said:

- Miss M had disposable income of more than £500 which was ample to cover her repayments to creditors
- there were some historic issues arising out of a change in circumstances but no real issues meeting her existing credit commitments
- her payment record showed the loan was sustainable and affordable.

As the complaint hasn't been settled, it has been passed to me to decide.

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 approach to considering unaffordable and irresponsible lending complaints on our website - including the key relevant rules, guidance, good industry practice and law. I've kept all this in mind when deciding Miss M's complaint and having done so, I am upholding Miss M's complaint for broadly the same reasons as our adjudicator. I'll explain my reasons.

There are some general principles I will keep in mind and questions I need to think about when deciding Miss M's complaint.

A lender must take reasonable steps to satisfy itself that the borrower can sustainably repay the loan – in other words, without needing to borrow elsewhere. The rules don't say what a lender should look at before agreeing to lend. But reasonable and proportionate checks should be carried out. For example, when thinking about what a borrower has left to spend on a new loan after paying other expenses, as well as taking into account the loan amount, the cost of the repayments and how long the loan is for, a proportionate check might mean a lender should also find out the borrower's credit history and/or take further steps to verify the borrower's overall financial situation.

Before agreeing to lend, lenders must work out if a borrower can afford the loan repayments alongside other reasonable expenses the borrower also has to pay. This should include more than just checking that the loan payments look affordable on a strict pounds and pence calculation.

And it's important to keep in mind that when working out if a loan looks likely to be affordable a lender must take a 'borrower focussed' approach and think carefully about the impact of the lending on the customer. The lending decision shouldn't just be about the business risk to the lender of not getting its money back.

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Miss M's complaint.

Trusttwo gathered information from Miss M by asking her about her income and expenses. It relied on statistical information which indicated what the likely living expenses would be for someone in Miss M's particular circumstances based on national UK averages. It also checked Miss M's credit file to understand her existing monthly credit commitments and credit history. Trusttwo said that based on these checks it was satisfied that the loan was affordable for Miss M.

I've thought carefully about what Trusttwo has said, including the comments it has made in response to our adjudicators view, but I don't think that Trusttwo made a fair lending decision when it provided this loan.

I say this because I don't think Trusttwo properly took into account information it saw about Miss M's credit record when thinking about her overall financial situation.

It isn't unusual for applicants for this type of high cost loan to have a credit history showing other short-term loans or even an impaired credit record – and these wouldn't necessarily be a sufficient reason to prompt a responsible lender to decline a loan application.

Trusttwo noted in its affordability calculation that Miss M's creditor repayments worked out at around £95. But I think Trusttwo could have seen from its credit checks that in reality Miss M needed to pay rather more than this, by my reckoning, a minimum of around one third of her net income just on servicing her existing credit commitments – and this didn't allow for her making any real inroads into her outstanding debt. I think that this was such a significant proportion of Miss M's monthly income it was a clear warning sign that she was already over-reliant on credit and potentially an indication that she was having serious money problems. And I think that was borne out by other information Trusttwo saw in its credit checks showing that one of Miss M's three defaulted accounts had gone into default just eleven months earlier, suggesting that her financial difficulties were not all historic but ongoing. As well as this, she had four credit cards all maxed out and her balance to limit ratio revealed that her reliance on using her credit cards had increased over the past year – including within the last three months.

This information looked to be clearly at odds with Trusttwo's affordability assessment suggesting Miss M had £500 spare cash each month and I think Trusttwo should've realised it couldn't fairly rely on the figures it had worked out.

Given that Trusttwo understood that Miss M's monthly take home pay was on average around £1,600, this meant that after she had taken out this loan, Miss M would be paying more than 40% of her net pay to creditors– mostly unsecured loan and credit card providers. I agree with our adjudicator that this was such a significant proportion of Miss M's monthly income it couldn't reasonably say it was likely that she would be able to repay the loan in a sustainable way over the five year loan term.

To sum up, despite what its affordability assessment appeared to show, I think that Trusttwo should've realised that Miss M's credit file showed that managing her debt had got beyond her control, she already had debt she had been unable to repay and Trusttwo should have realised that this loan was likely to add to her overall indebtedness and financial difficulty.

So, I am upholding Miss M's complaint that she should not have been given the loan.

This means that as Miss M has been further indebted with a high amount of interest on a loan that she shouldn't have been provided with she has lost out as a result of what Trusttwo did wrong. I think Trusttwo needs to take the following steps to put things right.

Putting things right

Our adjudicator didn't recommend that Trusttwo should pay any additional redress. Miss M hasn't commented on that and I haven't seen anything which makes me think Trusttwo acted unfairly towards Miss M in any other way. So I'm not awarding any additional redress.

And I think it is fair and reasonable for Miss M to repay the principal amount that she borrowed, because she had the benefit of that lending. But she has been charged extra for a loan that should not have been provided to her.

In line with this Service's approach, Miss M shouldn't repay more than the capital amount she borrowed.

If Trusttwo has sold any outstanding debt it should buy it back before doing what I have outlined below. If Trusttwo isn't able to buy the debt back then it should liaise with the new debt owner to achieve the following:

- add up the total amount of money Miss M received as a result of having been given the loan. The repayments Miss M made should be deducted from this amount.
- If this results in Miss M having paid more than she received, then any overpayments should be refunded along with 8% simple interest* (calculated from the date the overpayments were made until the date of settlement).
- If any capital balance remains outstanding, then Trusttwo should attempt to arrange an affordable/suitable payment plan with Miss M.
- Whilst it's fair that Miss M's credit file is an accurate reflection of her financial history, it's unfair that she should be disadvantaged by any adverse information recorded about a loan that was unfairly provided. So Trusttwo should remove any negative information recorded on Miss M's credit file regarding the loan.

*HM Revenue & Customs requires Trusttwo to deduct tax from this interest. Trusttwo should give Miss M a certificate showing how much tax has been deducted if she asks for one.

My final decision

For the reasons set out above, I uphold Miss M's complaint and direct Everyday Lending Limited (trading as Trusttwo) to take the steps set out above to put things right.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 20 June 2022.

Susan Webb
Ombudsman