DRN-3506751

## The complaint

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

## What happened

Mr L took out three instalment loans from ELL. A summary of his borrowing follows.

| loan | taken | value, £ | term in months | monthly repayment, £ | total repayable, £ |
|---|---|---|---|---|---|
| 1 | 22/11/2019 | 1,000 | 18 | 81.59 | 1,468.62 |
| 2 | 04/03/2020 | 1,515.66 | 18 | 128.27 | 2,308.86 |
| 3 | 03/07/2020 | 2,000 | 18 | 169.75 | 3,055.68 |

Loans 2 and 3 were both used in part to settle the previous loan.

Mr L says ELL's checks were not proportionate, it should have done more before lending to him. The loans had high interest rates and caused him stress and financial hardship.

Our adjudicator did not uphold Mr L's complaint. He said ELL should have done more to understand Mr L's financial position before lending. But based on the information he had seen there was nothing to indicate Mr L would have been unable to sustainably repay the three loans.

Mr L disagreed and asked for an ombudsman's review, so the complaint was passed to me. I reached a different conclusion, so I issued a provisional decision. An extract follows and forms part of this final decision. I asked both parties to send any comments or new evidence by 1 June 2022.

*Extract from my provisional decision*

*I can see ELL asked for some information from Mr L before it approved the loans. It asked for details of his income and checked this on payslips and/or bank statements he provided. It estimated his living costs using national statistics and added a buffer to cover any unplanned expenses. It also checked Mr L's credit file to understand his existing monthly credit commitments and credit history each time. From these checks combined ELL concluded Mr L could afford to take on the loans.*

*I think these checks were reasonable and proportionate and the decision to give loan 1 was fair, but it wasn't for loans 2 or 3. Our adjudicator referred to evidence he had not received (copies of joint account statements) that prevented him from assessing the lending decisions. I can see there were some transfers to a joint account, but I think from the available evidence it is possible to assess ELL's lending decisions. Mr L has explained the joint account was held with a family member and was to cover mortgage payments. Where the evidence is incomplete I have made findings based on the balance of probabilities, so based on what it most likely given the available evidence and the wider circumstances.*

*I'll explain my findings.*

*Loan 1*

*This was Mr L's first loan from ELL. It was for work in his garden. The monthly repayment of £81.59 was a small percentage of his verified income of £2,611.52. Whilst the credit check showed he had previously used payday loans (five in the previous 12 months), these had been settled and he now had a low level of unsecured debt (£1,024 on a credit card) that he was managing well. I don't think in these circumstances further checks were needed, nor was there information that showed there was a risk Mr L might be unable to sustainably repay the loan.*

*It follows I don't think ELL was wrong to give loan 1.*

*Loan 2*

*Mr L returned to borrow five months into the 18-month term of loan 1, this time he wanted the loan to repay another loan, and to settle loan 1. His credit check showed he had taken out two further loans (one just before loan 1 that didn't appear on his file at the time of the previous checks). It showed his overall level of unsecured indebtedness had increased but remained low at £2,499 and he was up-to-date with all his repayments.*

*But ELL could see from his bank statements that he was now persistently reliant on his overdraft facility, only remaining in credit after his payday for a couple of days. So as it was emerging that Mr L was having problems managing his money, I think ELL ought to have realised there was a risk he would be unable to sustainably repay this loan – so without borrowing to repay (be that through additional loans or his overdraft), or suffering some other adverse financial consequence. And ELL needed to consider this, not just the pounds and pence affordability to meet its regulatory obligations.*

*It follows I think ELL was wrong to give loan 2 to Mr L.*

*Loan 3*

*Mr L returned to borrow again four months into the term of loan 2, this time he explained he owed a family member money. This was the third time Mr L had returned to borrow from ELL in less than 12 months. The loan doubled the amount of high-cost debt he owed the lender. So I think by this stage the lender ought to have realised continuing to lend to Mr L would most likely be harmful. It could see from its checks that his bank account was now never in credit and he was still needing to take out payday loans. Mr L was clearly having problems managing his money and it was most likely the loan would not be sustainably affordable for him.*

*It follows I think ELL was wrong to give loan 3 to Mr L.*

*I haven't seen any evidence ELL acted unreasonably towards Mr L in some other way. He complained that the interest rates were very high. I accept the APR was high, but Mr L had to actively engage in the application process, so I think it's likely that he was aware of what he was agreeing to pay. I haven't seen anything which makes me think that ELL treated Mr L unfairly or breached industry practice regarding interest charges. The interest and charges on loans 2 and 3 will be refunded as I've concluded those loans shouldn't have been given.*

I then set out what ELL would need to do if I upheld the complaint in part.

Neither party responded to my provisional decision.

**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.

As neither party sent in any comments or new evidence for me to consider I have no reason to change the findings or outcome I set out in my provisional decision.

I find ELL was wrong to give loans 2 and 3 to Mr L.

**Putting things right**

Loans 2 and 3

I think it's fair and reasonable for Mr L to repay the capital that he borrowed, because he had the benefit of that money. But he has paid interest and charges on loans that shouldn't have been provided to him.

So ELL should:

- Add up the total amount of money Mr L received as a result of having been given loans 2 and 3. The repayments Mr L made should be deducted from this amount.
- If reworking Mr L's loan account results in him 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 Mr L's account results in there still be a capital balance outstanding ELL should work with Mr L to agree an affordable repayment plan.
- Remove any adverse information recorded on Mr L's credit file in relation to the loans 2 and 3.

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

**My final decision**

I am upholding Mr L's complaint in part. Everyday Lending Limited, 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 L to accept or reject my decision before 5 July 2022.

Rebecca Connelley
**Ombudsman**