DRN-3557427

The complaint

Mrs D complains through her representative that Everyday Lending Limited (Everyday) lent her money on a high cost loan which she was unable to afford to repay.

What happened

Everyday provided Mrs D with a loan on 28 November 2018, of £1,800 repayable over 18 months in monthly instalments of around £164. She complained to Everyday that the loan was unaffordable. She repaid the loan by 1 June 2020.

Everyday said that it had carried out all the normal verification checks, including obtaining payslips, recent bank statements and carrying out a credit check. It said that as the loan was for consolidation of Mrs D's existing loans, the new loan was affordable.

On referral to the Financial Ombudsman Service our adjudicator said that she didn't think Everyday should've offered this loan to Mrs D as it was evident from the checks carried out that she wouldn't have been able to meet the repayments.

Everyday disagreed, pointing out that whilst acknowledging that Mrs D was using payday loans, this loan was to be used to clear those loans.

The matter has been passed to me for further consideration.

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 the relevant rules, guidance, and good industry practice - on our website.

Considering the relevant rules, guidance, and good industry practice, I think the questions I need to consider in deciding what's fair and reasonable in the circumstances of this complaint are:

- Did Everyday complete reasonable and proportionate checks to satisfy itself that Mrs D would be able to repay the loan in a sustainable way?

- If not, would those checks have shown that Mrs D would have been able to do so?

The rules and regulations in place required Everyday to carry out a reasonable and proportionate assessment of Mrs D's ability to make the repayments under the agreement. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower-focused" – so Everyday had to think about whether repaying the loan would be sustainable. In practice this meant that Everyday had to ensure that making the repayments on the loan wouldn't cause Mrs D undue difficulty or significant adverse consequences. That means she should have been able to meet repayments out of normal income without having to borrow to meet the repayments, without failing to make any other payment she had a contractual or statutory obligation to make and without the repayments having a significant adverse impact on her financial situation.

In other words, it wasn't enough for Everyday to simply think about the likelihood of it getting its money back - it had to consider the impact of the loan repayments on Mrs D**.** 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. I think that such a 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 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).

According to Mrs D's credit record at the time, she had four active payday loans, three unsecured loans, a credit card, and a hire purchase (HP) loan. I calculate her monthly credit commitments amounted to £774, out of an assessed income of about £1,468. This was before the new loan instalment was added in, increasing the credit commitments to £938. This would have meant about 64% of her income being spent on credit commitments. I think that position would have been unsustainable.

Everyday says that the payday loans were to be paid off by the loan. I note that but also note that Everyday released the whole of the loan advance to Mrs D, instead of paying off the loans (which I think it could easily have done) before releasing the balance. This means in my view that Everyday took the risk that Mrs D wouldn't repay all or some of the loans. I don't have any information as to whether she did in fact pay off the loans. But even if all the payday loans were paid off, with the new loan instalment she would still have been paying around 47% of her income on credit commitments. I've discounted a loan where a single payment was due. Again that would be likely to make the loan unaffordable.

Everyday assessed Mrs D's monthly disposable income at about £188. But I assume this was on the basis that the payday loans would be paid off. But as I've noted Everyday didn't make sure this was done. I think, with such a high level of Mrs D's income being used for her credit commitments, this figure, even if the payday loans were paid off, it wasn't sufficient for Mrs D to afford the loan repayments. So, although I think Everyday did carry out proportionate checks, they didn't show the loan to be affordable. So I don't think that Everyday made a fair lending decision.

Putting things right

Miss D has had the capital payment in respect of the loan, so it's fair that she should repay this. So far as the loan is concerned, I think Everyday should refund all interest and charges as follows:

- Remove all interest, fees and charges applied to the loan.

- Treat any payments made by Mrs D as payments towards the capital amount.

- If Mrs D has paid more than the capital, refund any overpayments to her with 8% simple interest* from the date they were paid to the date of settlement.

- Remove any adverse information where appropriate about the loan from Miss D's credit file.

*HM Revenue & Customs requires Everyday to deduct tax from this interest. It should give Mrs D a certificate showing how much tax it's deducted if she asks for one..

My final decision

I uphold the complaint and require Everyday Lending Limited to provide the remedy set out under Putting things right" above

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 8 August 2022.

Ray Lawley
Ombudsman