DRN-3574545

The complaint

Miss B, through her representative, complains that Everyday Lending Limited, trading as Everyday Loans, lent to her irresponsibly.

What happened

In November 2017, Miss B was approved for a £3,500 over 36 months repayable at £225.05 each month. The total to pay was £8,101.80. As at May 2022, Everyday Lending has said that around £3,458 remained to pay back.

Everyday Lending has sent documents to show that it reviewed and verified Miss B's income and considered two months' worth of bank statements before lending. Miss B had told Everyday Lending that she lived with her parents and so paid little or nothing to household bills. Still it used some data to calculate what it thought would be her living expenses.

Miss B provided details of her existing credit commitments and these were set out in a table, a copy of which has been sent to me. Miss B was using this Everyday Lending loan to consolidate several other loans.

By Everyday Lending's calculations this meant that Miss B's current, monthly creditor repayment liability would be reduced by £820 each month and its own repayment amount of £225 would be affordable.

One of our adjudicator's looked at the complaint and wrote a brief view to say that even then, the amount Miss B would be repaying to Everyday Lending and her other creditors each month would have been too much for Miss B. So, she thought that Everyday Lending had got it wrong when it advanced this loan.

Everyday Lending responded to say that it did not agree and so the unresolved complaint was 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 general approach to complaints about unaffordable/irresponsible lending - including all of the relevant rules, guidance and good industry practice - on our website.

I think the questions I need to consider in deciding what's fair and reasonable in the circumstances of this complaint are:

- Did Everyday Lending, each time it lent, complete reasonable and proportionate checks to satisfy itself that Miss B would be able to repay in a sustainable way?

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

The rules and regulations in place required Everyday Lending to carry out a reasonable and proportionate assessment of Miss B'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 Everyday Lending had to think about whether repaying the loan would be sustainable. In practice this meant that the business had to ensure that making the repayments on the loan wouldn't cause Miss B 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 Lending to simply think about the likelihood of it getting its money back, it had to consider the impact of the loan repayments on Miss B**.** 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 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 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 the arguments, evidence and information provided in this context and what this all means for Miss B's complaint.

Everyday Lending's response to our adjudicator's view is a little puzzling as it cites figures which I do not think correlate to its own affordability review done before it lent to Miss B in 2017. I say this because recently it has accepted that Miss B's total repayments '*may have been over 25%'* of her income at the time, but it says that Miss B would have been left with £760.31 for her general living expenses and her disposable income.

It pointed to the bank statements it reviewed in 2017 showed that Miss B rarely used her overdraft facility.

And these figures differ from what Everyday Lending had outlined in its final response letter (FRL) it sent to Miss B's representative after she had complained. In that FRL Everyday Lending had stated that Miss B's income was £1,389 and her monthly financial commitments plus her general living expenses were calculated as £1,724. Clearly demonstrating a deficit of £335. Its own FRL showed that Miss B was not able to afford the £225 a month for this loan.

I've considered what Everyday Lending has said together with the documentary evidence I have from the review carried out in 2017. And I think that what Everyday Lending was trying to demonstrate was that by consolidating several other loans then her monthly repayment commitment would have reduced.

But I have calculated that even if her monthly repayment commitment was reduced from £1,224 to £404, when her Everyday Lending commitment of £225 a month was added into that , it would come to £629 a month. And yes – that may be a reduction for Miss B but her indebtedness to Everyday Lending was due to go on for three years which is not an insubstantial term for a loan. And the percentage of her net monthly income would have been about 45%. This was in my view too much for Miss B to commit to overall.

Miss B had other debts to repay as well as the four she consolidated with the Everyday Lending loan. Plus, she was paying her father £372 for a car – and although that may have been an informal arrangement, it showed as a regular expenditure sum on the bank statements Everyday lending had reviewed. And all individuals have everyday living expenses and Everyday Lending would have known that at the time.

The situation was that Miss B was spending a great deal of her net salary on credit commitments even after the consolidation exercise with the Everyday lending loan. And in my view that was too much.

So, I am upholding Miss B's complaint .

Putting things right

If Everyday Lending has sold the outstanding debt it should buy it back if able to do so and then take the following steps. If it is not able to buy the debt back then it should liaise with the new debt owner to achieve the results outlined below.

A) Remove all interest, fees and charges from the balance on the upheld outstanding loan, and treat any repayments made by Miss B as though they had been repayments of the principal on it. If this results in Miss B having made overpayments then Everyday Lending should refund these overpayments with 8% simple interest* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled. It should then refund the amounts calculated.

B) If there is still an outstanding balance then the amounts calculated in "A" should be used to repay any balance remaining on outstanding balance. If this results in a surplus then the surplus should be paid to Miss B.

   However, if there is still an outstanding balance then Everyday Lending should try to agree an affordable repayment plan with Miss B. It shouldn't pursue outstanding balances made up of principal already written-off.

C) Remove any adverse information recorded on Miss B's credit file in relation to the loan.

*HM Revenue and Customs requires Everyday Lending to deduct tax from this interest. It should give Miss B a certificate showing how much tax its deducted, if she asks for one.

My final decision

My final decision is that I uphold Miss B's complaint and I direct that Everyday Lending Limited, trading as Everyday Loans, does as I have outlined in the 'putting things right' section of the decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 15 August 2022.

Rachael Williams
Ombudsman