DRN-3647757

The complaint

Ms H complains that Everyday Lending Limited ("Everyday Loans") lent to her in an irresponsible manner.

What happened

Ms H was given 2 guarantor loans by Everyday Loans. She borrowed £5000 in December 2017 and agreed to repay this over 36 months. She then went back to Everyday Loans and applied for a 'top up' loan in June 2019. Most of the proceeds of this second loan was to be used repaying loan 1. The remaining balance went to Ms H. The second loan was again for £5000 and was due to be repaid over 36 months.

I issued a provisional decision on this complaint in July 2022. Both parties have received a copy of that provisional decision, but for completeness I include an extract from the decision below. I said;

"Everyday Loans gathered some information from Ms H before it agreed to the first loan. It asked Ms H about her income and expenditure. It says it verified her income by asking for a payslip. It carried out a credit check and also requested and looked through 2 months' worth of bank statements. It then used a figure of 35% of Ms H's verified income to use as her living expenses. It says those checks suggested Ms H had enough disposable income each month to afford the loan repayments.

Ms H was entering into a significant commitment with Everyday Loans. She was agreeing to make monthly repayments for a period of 3 years. So, I think it is right that Everyday Loans wanted to gather, and independently check, some detailed information about Ms H's financial circumstances before it agreed to lend to her. I think that the checks it did were sufficient to achieve that aim. I think Everyday Loans checks were proportionate.

But simply performing proportionate checks isn't always enough. A lender also needs to react appropriately to the information those checks show. Those results might sometimes lead a lender to undertake further enquiries into a consumer's financial situation. Or, in some cases, the results might lead a lender to decline a loan application outright. So, I've looked at what the Everyday Loans gathered to see whether it needed to ask for more or whether it made a fair lending decision.

Everyday Loans credit check showed that Ms H was making use of other credit at the time she applied for loan 1. She had a loan and 5 credit cards. Ms H's open accounts appeared to be well maintained with no issues reported.

Ms H told Everyday Loans she was going to consolidate her loan and then use the rest of the capital for other reasons. So, it took the loan repayment figure off when it assessed affordability. I think it was entitled to rely on what Ms H had told it she was going to use the money for at this point. The amount that Everyday Loans had calculated Ms H to have in disposable income after it did this, meant that she could afford the repayment for loan 1.

So, at this stage I currently don't think Everyday Loans did anything wrong when it agreed to give her loan 1, based on what it had gathered and what it had in front of it.

Ms H asked Everyday Loans for loan 2 in June 2019. She had a large balance left to repay from loan 1 and most of the capital was to be used to repay it. A small balance was left over which Ms H said she was going to use for home improvements. Everyday Loans has said it will put things right for this loan, but it doesn't agree with the investigator's findings. So, for this reason, I have looked into what it did when it agreed to provide the loan to Ms H.

As before, Everyday Loans asked Ms H for information about her income and expenditure. It largely carried out the same checks as it did for the first loan including a credit check. This time though, it used Office of National Statistics (ONS) data to calculate her monthly living costs. The checks again suggested that Ms H had enough disposable income each month to afford the second loan repayments. I think on balance, its checks were also proportionate. But again, I think it would need to react to what these checks showed, and I don't think it did for loan 2. I think it should have not agreed to lend and I will explain why.

The credit check that Everyday Loans carried out showed that Ms H had taken out new credit since it had last carried out a check on her finances for the application for loan 1. I can see that at the time of requesting Loan 2, Ms H had 3 open short term loans, with the most recent of these being taken out by Ms H in March 2019 only 3 months before her application for this one. She had also defaulted on a credit card in November 2018, between taking out loan 1 and asking for loan 2. Ms H had also accrued arrears on a second credit card.

Ms H's outstanding debt and her monthly credit commitments had increased significantly and in a fairly short space of time. Seeing all of this on Ms H's credit report, demonstrates to me, on balance, that Ms H was having problems managing her finances. This loan would do nothing to alleviate that or improve the situation she found himself in. She wasn't for example, able to use the proceeds of this loan to consolidate the short-term loans or pay off her arrears. And she didn't say she was going to use the additional amount passed to her by Everyday Loans for any of this either. For the reasons I have just mentioned, I don't think the loan repayments for loan 2 were sustainably affordable for Ms H, as she didn't appear to be able to repay what she was already committed to. So I don't think Everyday Loans should have agreed to it.

In conclusion, I think Everyday Loans made proportionate checks when it agreed to loan 1 and on balance didn't do anything wrong when it agreed to lend at that stage. But by the time Ms H asked for loan 2, her circumstances had changed, and Everyday Loans ought to have seen and reacted to this through the checks it made. I am currently minded to think it didn't make a fair lending decision when it agreed to loan 2. So, I uphold Ms H's complaint and Everyday Loans need to put things right."

I asked both parties to let me have any comments, or additional evidence, in response to my provisional decision. Everyday Loans did not respond. Ms H responded through her representative and said she is willing to accept the 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.

Neither party has anything further to add that I feel I need to comment on or that will change the outcome of this complaint. So, because of this, I don't see any reason to depart from my findings within my provisional decision. With that being the case, I uphold Ms H's complaint.

Putting things right

I think it is fair and reasonable for Ms H to repay the principal amount that she borrowed for loan 2, because she has had the benefit of that lending. But she has been indebted with interest and charges on loan 2 that shouldn't have been provided to her.

Everyday Loans should:

- Remove all interest, fees and charges on loan 2 and treat all the payments Ms H has made as payments towards the capital.
- If reworking Ms H's loan account results in her having effectively made payments above the original capital borrowed, then Everyday Loans 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*.
- Discuss with Ms H an affordable repayment plan if there is still an outstanding balance to repay.
- Remove all negative information about Loan 2 on Ms H's credit file.

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

My final decision

My final decision is that I uphold Ms H's complaint and direct Everyday Lending Limited to put things right as I have described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 11 September 2022.

Mark Richardson
Ombudsman