DRN-3648763

Complaint

Mr J has complained about a guarantor loan Everyday Lending Limited (trading as “Trust Two”) provided to him. He says the loan was unaffordable.

Background

Trust Two provided Mr J with a guarantor loan for £6,700.00 in September 2018. This loan had an APR of 49.5% and a term of 60 months. This meant that the total amount to be repaid of £15,819.00, including interest, fees and charges of £9,119.00, was due to be repaid in 60 monthly instalments of just under £265.

One of our investigators reviewed Mr J’s complaint and she thought Trust Two shouldn’t have provided Mr J with his loan. So she thought that Mr J’s complaint should be upheld.

Trust Two disagreed with our investigator and asked for the case to be passed to an ombudsman for a final decision.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

We’ve explained how we handle complaints about unaffordable and irresponsible lending on our website. And I’ve used this approach to help me decide Mr J’s complaint. Having carefully considered everything I’ve decided to uphold Mr J’s complaint. I’ll explain why in a little more detail.

Trust Two needed to make sure it didn’t lend irresponsibly. In practice, what this means is Trust Two needed to carry out proportionate checks to be able to understand whether Mr J could afford to repay any credit it provided. The fact that Trust Two may also have been able to seek payments from a guarantor did not alter or dilute this obligation in any way.

Our website sets out what we typically think about when deciding whether a lender’s checks were proportionate. Generally, we think it’s reasonable for a lender’s checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower’s income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we’d expect a lender to be able to show that it didn’t continue to lend to a customer irresponsibly.

The information Trust Two has provided suggested that it carried out a credit check before this loan was provided. The results of which showed that Mr J had had previous difficulty repaying credit. Indeed Trust Two’s own checks showed that, at best, the payments to this loan were taking Mr J towards the margin of his income. And this was with the use of estimated living costs and what appears to be an over-optimistic declaration of rent payments too.

I also have concerns that the recorded purpose of this loan was debt consolidation. This is because Mr J wasn't going to be able to clear all of his debts with this loan and he'd only recently taken out a loan for a much larger amount than this one. So it's unclear to me how this loan, which was on such disadvantageous terms, was going to improve Mr J's already precarious financial position going forward and how Trust Two could accept what Mr J said at face value in these circumstances.

All of this leaves me persuaded by what Mr J has said about already being in a difficult financial position at the time. And while it's possible Mr J's difficulties reflected his choices rather than financial difficulty, I'd add that my experience of these types of cases suggest this is unlikely, in the absence of any reasonable or plausible arguments from Trust Two, I've been persuaded to accept Mr J's version of events.

As this is the case, I do think that Mr J's existing financial position meant that he was unlikely to be able to afford the payments to this guarantor loan, without undue difficulty or borrowing further. And I'm satisfied that reasonable and proportionate checks would more like than not have shown Trust Two that it shouldn't have provided this loan to Mr J. As Trust Two provided Mr J with this loan, notwithstanding this, I'm satisfied it failed to act fairly and reasonably towards him.

Mr J ended up paying interest, fees and charges on a guarantor loan he shouldn't have been provided with.

So I'm satisfied that Mr J lost out because of what Trust Two did wrong and that it should put things right.

Fair compensation – what Trust Two needs to do to put things right for Mr J

Having thought about everything, Trust Two should put things right for Mr J by:

- removing all interest, fees and charges applied to Mr J's loan from the outset. The payments Mr J actually made, whether to Trust Two or any third-party, should be deducted from the new starting balance – the £6,700.00 originally lent. If once all adjustments have been made this shows that Mr J has made overpayments, these overpayments should also be refunded to Mr J together with interest at 8% simple a year from the date they were made by Mr J to the date of settlement†

- if no outstanding balance remains after all adjustments have been made then all adverse information recorded on Mr J's credit file as a result of this loan should be removed.

† HM Revenue & Customs requires Trust Two to take off tax from this interest. Trust Two must give Mr J a certificate showing how much tax it has taken off if he asks for one.

My final decision

For the reasons I've explained, I'm upholding Mr J's complaint. Everyday Lending Limited should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 16 January 2023.

Jeshen Narayanan
Ombudsman