DRN-3650323

Financial Ombudsman Service

Complaint

Mr O has complained about personal loans Everyday Lending Limited (trading as “Everyday Loans”) provided to him. He says the loans were unaffordable and were therefore irresponsibly lent to him.

Background

Everyday Loans initially provided Mr O with a first loan for £1,600.00 in October 2017. This loan had an APR of 199.6% and a term of 12 months. This meant that the total amount to be repaid of £2,629.56, including interest, fees and charges of £1,029.56, was due to be repaid in 12 monthly instalments of just under £220.

Everyday Loans then provided Mr O with a second loan for £2,000.00 in January 2020. This loan had an APR of 97.3% and a term of 24 months. This meant that the total amount to be repaid of £3,705.60, including interest, fees and charges of £1,705.60, was due to be repaid in 24 monthly instalments of just under £155.

One of our adjudicators reviewed Mr O’s complaint and she thought Everyday Loans didn’t do anything wrong when providing loan 2. But she also that Everyday Loans ought to have realised that it shouldn’t have provided Mr O with loan 2. So she thought that Mr O’s complaint should be partially upheld.

Mr O agreed with our adjudicator’s assessment but Everyday Loans disagreed with the outcome on loan 1. So the case was passed to an ombudsman for a final decision. As the parties appear to be in agreement on the outcome reached for loan 2, this decision on only looking at whether Everyday Loans should have provided Mr O with loan 1.

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 O’s complaint. Having carefully considered everything I’ve decided to uphold Mr O’s complaint. I’ll explain why in a little more detail.

Everyday Loans needed to make sure it didn’t lend irresponsibly. In practice, what this means is Everyday Loans needed to carry out proportionate checks to be able to understand whether Mr O could afford to repay any credit it provided.

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 Everyday Loans has provided suggested that it carried out credit checks before loan 1 was provided. The results of which showed that Mr O already had a significant amount of existing debt with high cost and payday lenders. Furthermore, the credit search showed that Mr O use of such credit wasn't a one off and he'd been taking out such credit for an extended period. The bank statements Everyday Loans obtained also show that Mr O was at the maximum amount of his overdraft too.

I'm also concerned that Everyday Loans' own income and expenditure calculation showed that this loan would take Mr O right to the margin of his disposal income. And Everyday Loans relied on the use of average data to calculate Mr O's living expenses when arriving at its monthly disposable income figure. This is despite the fact that Mr O's credit file showed he didn't fit the profile of the average borrower and the copies of Mr O's statements provided show that Everyday Loans circled payments and added comments such as previous rent, which suggests that Mr O might have been in recent rent arrears.

All of this leaves me persuaded by what Mr O has said about already being in a difficult financial position at the time. And while it's possible Mr O's financial position 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 Everyday Loans, I've been persuaded to accept Mr O's version of events here.

As this is the case, I do think that Mr O's existing financial position meant that he was unlikely to be able to afford the payments to loan 1, without undue difficulty or borrowing further. And I'm satisfied that reasonable and proportionate checks would more like than not have shown Everyday Loans that it shouldn't have provided loan 1 to Mr O. As Everyday Loans provided Mr O with loan 1, notwithstanding this, I'm satisfied it failed to act fairly and reasonably towards him.

Mr O ended up paying interest, fees and charges on a loan he shouldn't have been provided with. So I'm satisfied that Mr O lost out because of what Everyday Loans did wrong and that it should put things right.

Fair compensation – what Everyday Loans needs to do to put things right for Mr O

Having thought about everything, Everyday Loans should put things right for Mr O by:

- refunding all interest, fees and charges Mr O paid on loan 1;
- adding interest at 8% per year simple on any refunded payments from the date they were made by Mr O to the date of settlement†;
- removing all adverse information it recorded on Mr O's credit file as a result of loan 1.

† HM Revenue & Customs requires Everyday Loans to take off tax from this interest. Everyday Loans must give Mr O 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 O'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 O to accept or reject my decision before 3 October 2022.

Jeshen Narayanan
Ombudsman