DRN-3665674

The complaint

Mr W complains that Everyday Lending Limited trading as Everyday Loans irresponsibly lent him money on high cost loans which he couldn't afford to repay.

What happened

Everyday provided three loans to Mr W. In respect of the first two loans, Everyday agreed that they had been irresponsibly lent and it proposed a settlement which Mr W accepted, and the settlement was paid. I regard that matter as settled.

In respect of the third loan, that was provided on 27 January 2020. It was for £3,000 repayable over 36 months at a monthly rate of £297. Mr W got into problems over the repayments and has entered into a repayment plan with Everyday, which he is paying through a debt advice charity. He complained to Everyday about the loan, saying it was unaffordable to him.

Everyday said it carried out all necessary eligibility checks, including verifying his income, reviewing his latest bank statement, and carrying out a credit check. It assessed his living expenses using ONS (Office for National Statistics) data. It assessed that the loan was affordable, as he had a reasonable amount of disposable income to pay the repayments.

On referral to the Financial Ombudsman, our adjudicator said that the results of the checks Everyday carried out showed Mr W's total monthly credit repayments represented a significant proportion of his income. In those circumstances, she said there was a significant risk that Mr W wouldn't have been able to meet his existing commitments without having to borrow again.

Everyday disagreed, pointing out that Mr W's credit commitments only represented 16% of his income, which it did not consider to be a significant proportion. It further assessed that he would have had a monthly disposable income of over £570 a month. It said he lived with his parents so his living costs were minimal.

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 Mr W would be able to repay the loan in a sustainable way?

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

The rules and regulations in place required Everyday to carry out a reasonable and proportionate assessment of Mr W'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[s] would be sustainable. In practice this meant that Everyday had to ensure that making the repayments on the loan wouldn't cause Mr W undue difficulty or significant adverse consequences. That means he 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 he had a contractual or statutory obligation to make and without the repayments having a significant adverse impact on his 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 Mr W**.** 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).

The new loan repayment would have more than doubled Mr W's credit commitments. He had a relatively modest income and this was the third loan he had obtained through Everyday. So Everyday needed to do a thorough assessment of Mr W's financial circumstances.

Mr W had four credit cards, all of which were near their limit. He also had several loans. This loan was partly for consolidation of previous loans, and taking that into account Everyday assessed that his credit commitments were around £240 a month. Whilst this figure should be higher to take account of a 5% payment on his credit cards and overdraft, nonetheless adding Everyday's figure to the loan repayment, this still gives a figure of £537 which represented 35% of his monthly income of £1,557. Normally we would say that any figure above 25% is significant and a potential indicator of unaffordability.

I have gone onto consider Mr W's monthly disposable income, since a figure of over £570 potentially shows sufficient spare income. However if I compare these figures with the previous figure obtained for the first two loans, I find that Mr W's outgoings appear to have significantly gone down.

Firstly, for both previous applications, Mr W was assessed as paying £300 to his parents for his rent, but for this loan the figure was set at £0. Also, when he had a lower income, his calculated living expenses for the first loan were £522 and for the second loan, £500. For this loan it was calculated at £449. So for no good reason that I can see, Mr W's monthly living expenses had gone down by £350 for this loan. I've taken into account that Mr W may have minimised his rental payment to Everyday, but nevertheless it had all the information there from previous loans.

I've also considered that Mr W had an overdraft of £1,375 which appeared to be increasing. Everyday had the bank statement available and it certainly appears that Mr W's income was fully committed.

I would also note that Everyday agreed that both the previous loans were irresponsibly lent. It's difficult therefore to make the case that the third loan wasn't irresponsibly lent when Mr W's circumstances hadn't changed.

So, considering Mr W's high credit to income ratio and doubts over the amount of disposable monthly income and the outcome of its review of his two previous loans I don't think that Everyday made a fair lending decision in respect of this loan.

Putting things right

Mr W has had the capital payment in respect of the loan, so it's fair that he 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 Mr W as payments towards the capital amount.
- If Mr W has paid more than the capital, refund any overpayments to him with 8% simple interest* from the date they were paid to the date of settlement.
- But if there's still an outstanding balance, Everyday should come to a reasonable repayment plan with Mr W
- Remove any adverse information about the loan from Mr W's credit file.

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

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 21 November 2022.

Ray Lawley
Ombudsman