DRN-3690724

Financial Ombudsman Service

The complaint

Mrs G complains through her representative that Everyday Lending Limited trading as Everyday Loans (Everyday) irresponsibly lent her money on a high cost loan which she couldn't afford to repay.

What happened

Everyday provided Mrs G with a loan of £1,500 on 23 February 2019, repayable over 24 months at the rate of £165 a month. She started to have problems in making the repayments by August 2019 and started making lower repayments. The loan is still active. Mrs G complained through her representative in March 2022 of irresponsible lending.

Everyday said it carried out all necessary checks, including verifying Mrs G's income, obtaining a credit report, and reviewing 2 months' bank statements. It assessed her outgoings by using ONS (Office for National Statistics) data. It accepted that Mrs G's income had been low before the loan application as she had been off work sick, but decided to lend the monies on the basis that she had now returned to work and her income had increased.

On referral to the Financial Ombudsman Service our adjudicator said that the results of the checks showed Mrs G's total monthly credit repayments represented a significant proportion of her income. In these circumstances, there was a significant risk that Mrs G wouldn't have been able to meet her existing commitments without having to borrow again.

Everyday didn't agree, pointing out that from her credit file her total loan balance outstanding was £1,942, and the revolving balance (Credit, store cards or mail order) was £84. Her credit commitments were £177.83 which represented 20.9% of her income. It didn't agree that this was significant or a cause for concern.

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 Mrs G would be able to repay the loan in a sustainable way?

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

The rules and regulations in place required Everyday to carry out a reasonable and proportionate assessment of Mrs G'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 would be sustainable. In practice this meant that Everyday had to ensure that making the repayments on the loan wouldn't cause Mrs G 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 to simply think about the likelihood of it getting its money back - it had to consider the impact of the loan repayments on Mrs G**.** 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).

I have noted that Everyday hasn't been able to show us the credit report obtained on Mrs G at the time of the loan application. I have had to rely on the figures set out in its own credit summary. This showed that she had three loans, one of which was due for final payment. She did have credit cards with a total balance of £84. But she also had a mail order account, several debts to communication suppliers, a debt to a public utility and a County Court Judgment. Apart from the loans where payments were fixed, Everyday calculated 3% payments for the other debts. Our approach is that this should be 5% to enable the consumer to pay off the debts within a reasonable period.

Recalculating those balances at 5% would mean payments of around £225. But the loan payment has to be added which means £390 credit commitments. The income set out in Miss G's bank statements, declared on her application, and shown on Everyday's disposable income calculation was £849. This income was also quoted by Everyday in response to our adjudicator's view. With the assessed living costs, this would have produced a negative disposable income and her credit commitments would have been about 45% of her income - clearly not affordable.

I've noted that Everyday relied on Mrs G advising it that she had returned to work and her income would be about £500 more. This would still mean her credit commitments would be about 28-29% of her income – still high.

The main issue I have with this is that Mrs G had apparently been able to sustain a very high level of debt repayments whilst on a much lower income. So although the pounds and pence calculation would have looked healthier if she had been able to continue earning the higher income, I think that the indicators of her position at the time of applying for the loan showed that it was likely not sustainable. So I don't think that Everyday made a fair lending decision.

Putting things right

Mrs G has had the capital payment in respect of the loan, so it's fair that she 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 Mrs G as payments towards the capital amount.
- If Mrs G has paid more than the capital, refund any overpayments to her 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 Mrs G
- Remove any adverse information about the loan from Mrs G's credit file.

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

My final decision

I uphold the complaint and require Everyday Lending Limited trading as Everyday Loans to provide the remedy set out under "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 24 November 2022.

Ray Lawley
Ombudsman