DRN-3722313

The complaint

Miss T complains that Everyday Lending Limited trading as Everyday Loans (Everyday) irresponsibly lent her money on a high cost loan which she couldn't afford the repayments for.

What happened

Everyday provided a loan to Miss T on 13 February 2017, of £3,000 repayable over 36 months at the rate of £206.47 a month. She started to miss payments from April 2017 due to here starting a new job on lower pay, then she was off sick for a while. I see Everyday offered to accept reduced payments but so far as I am aware no formal arrangement has been set up. Miss T complained to Everyday in May 2022 that the loan was unaffordable.

Everyday said it carried out all necessary eligibility checks. These included obtaining and reviewing up to two months' worth of bank statements from Miss T's primary bank account, obtaining and reviewing one month's payslip, conducting a Credit Search, and carrying out a job check. It used ONS (Office for National Statistics) data to assess her living expenses. As the loan was for consolidation of some existing loans, it assessed that the loan was affordable.

On referral to this service our adjudicator said that from the information Everyday gathered, prior to making its lending decision, as well as additional information it could've reasonably obtained, he said Everyday was aware or should've been aware, Miss T couldn't afford to sustainably repay the loan.

Everyday disagreed and requested an ombudsman's decision. 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 Miss T would be able to repay the loan in a sustainable way?
- If not, would those checks have shown that Miss T would have been able to do so?

The rules and regulations in place required Everyday to carry out a reasonable and proportionate assessment of Miss T'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 Miss T 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 Miss T. 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).

This loan was supposed to be for consolidation of existing loans. Everyday assessed that Miss T was paying £964.66 in credit commitments out of an income of £1,201 per month. It assessed that by consolidating, Miss T would save £647 per month in repayments. However, one of those was a revolving credit short term loan which had £314 outstanding.

So, by paying this off Miss S wasn’t really saving 250 a month, but rather transferring the balance to her loan and extending it by three years, at a (likely) higher rate of interest. As our adjudicator said there was no guarantee that this closed the account. Indeed, I note that she obtained further credit from that provider in March 2017. However, I do note from her bank statement that Miss T did pay the £314 balance on that account after receiving the loan.

The other loan that was paid off was paid directly by Everyday before releasing the balance of the loan monies to Miss T. This would have saved her the £102 a month payment. I’ve seen no evidence that any other loans were paid off.

If the intention was to pay off other loans, specified in its “go-live audit”, then Everyday should have paid off these loans also before releasing the money to Miss T. As it is I don’t think those loans were paid off, there’s certainly no evidence of this from her bank statement, and the loan monies were paid into that account. So I think Miss T’s credit commitments remained high, at around £612.66 a month. After adding the new loan repayment to this figure Miss T would have been spending around 68% of her income on credit commitments. In light of that, I think that indicates that the loan was unaffordable.

Everyday assessed Miss T's disposable income to be around £177 a month based on her living at home and not paying anything to her parents for bills. I've seen no evidence, as Miss T tells us, that she informed Everyday she would be starting a new job on lower pay, so I think it was fair for Everyday to base its assessment on what she told it. Nevertheless because it appears that she didn't pay off other loans, the disposable income figure would have just about been wiped out.

Finally Everyday saw two months bank statements at the time of the application. These showed that Miss T had an overdraft of £249, and that she had regularly been receiving credit (in both the December 2016 and January 2017 statements) from the company that provided the revolving credit. There was no provision for paying off the overdraft though I note there was an expectation that she would pay the balance of her loan towards it. Technically she did this though the account soon went back into overdraft. Miss T has pointed out that she had been having problems gambling. However while I note there were a few gambling transactions they (at that stage) appeared to be minimal).

So I think that this loan was unaffordable and Miss T was unlikely to be to be able to sustain the payments. Even if she had paid off all the loans she was expected to, I still think that the amount she was still paying out on credit commitments was too high to justify incurring the added debt of this loan for three years.

Putting things right

Miss T 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 Miss T as payments towards the capital amount.
- If Miss T 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 Miss T
- If Everyday has sold the outstanding debt to a third-party it should do what it can to buy it back - if it can't, it can't deduct any outstanding balance from the redress and it then needs to work with the third-party to bring about the steps above.
- Remove any adverse information about the loan from Miss T's credit file.

*HM Revenue & Customs requires Everyday to deduct tax from this interest. It should give Miss T 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 Miss T to accept or reject my decision before 2 December 2022.

Ray Lawley
Ombudsman