DRN-3874634

Financial Ombudsman Service

The complaint

Ms H complains that Everyday Lending Limited trading as Everyday Loans irresponsibly lent her a loan.

What happened

Everyday Loans lent Ms H a loan in July 2019, the loan was for £1,200 to be repaid over 18 monthly instalments of £159.58. Shortly after taking out the loan Ms H had problems repaying it and the debt is still outstanding.

When Ms H complained to Everyday Loans, it didn't uphold her compliant, it said it carried out sufficient checks and those checks showed Ms H could afford the repayment. Ms H then referred her complaint to this service where it was looked at by one of our adjudicators.

Our adjudicator thought Everyday Loans shouldn't have lent to Ms H based on what its checks revealed. He thought Ms H was paying a significant portion of her income towards credit and the figure Everyday Loans used to assess Ms H's living expenses at the time was not adequate for her.

Everyday Loans disagreed and as the complaint remains unresolved, it has been passed to me an ombudsman to decide.

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.

I've also taken into account the law, any relevant regulatory rules and good industry practice at the time the loans were offered.

Before lending money to a consumer, a lender should take proportionate steps to understand whether the consumer could repay without borrowing further or suffering significant adverse consequences.

A lender should gather enough information for it to be able to make an informed decision on the lending. Although the guidance and rules themselves didn't set out compulsory checks, they did list a number of things a lender could take into account before agreeing to lend. The key thing was that any checks needed to be proportionate and had to take into account a number of different things, including things such as how much was being lent and when what was being borrowed was due to be repaid. A business should also consider and react appropriately to what it knew about the consumer at the time it made its lending decision.

Everyday Loans has provided evidence to show that before lending, it searched Ms H's credit file, asked her for her monthly income. It says it used data from the Office of National Statistics (ONS) to work out Ms H's living costs.

I can see Everyday Loans verified some of the information Ms H provided through her bank statements and payslip. The purpose of the loan is recorded as for holiday and clearing some bills.

Everyday Loans worked out Ms H's monthly income as £1,219.93, it didn't ask Ms H about her living costs and used an ONS average of £366. At the time of the loan, Ms H was living with parents and declared she didn't make a payment towards housing.

Ms H's credit file showed that she had three historic defaults from 2013 and 2014 which had been passed to debt collectors and so Ms H was still repaying those debts, this was also confirmed on her bank statements. Ms H also had other credit which Everyday Loans worked out she was paying £549.47 towards each month.

Overall, I think Everyday Loans carried out sufficient checks, but I don't think it reacted appropriately to what its checks showed. A closer look at the Ms H's circumstances show that she was borrowing from at least four other high cost credit lenders and Everyday Loans would be the fifth. In addition to those loans, she also had an outstanding balance on her credit card and was still repaying historic debts.

Ms H was due to pay around £549.47 towards unsecured credit and with the monthly repayment due on this loan, she'd be repaying more that £700 towards unsecured credit each month. This amount was significant when compared with her monthly income of around £1,219.

Considering the full picture of Ms H's finances, she'd be paying towards her defaulted accounts for at least five years and there was still an outstanding balance. She was borrowing from multiple high cost lenders and paying a significant portion of her monthly income towards unsecured debt. I think Everyday Loans should have known that it was unlikely Ms H couldn't sustainably afford this loan. This was borne out in the fact that Ms H struggled to keep up with her loan repayments within a short time of the lending.

Everyday Loans in my opinion has lent to Ms H when it shouldn't have, and this has resulted in her suffering loss and it needs to put things right.

Putting things right

I understand the loan is still outstanding and so to put things right for Ms H. If the debt has been sold, Everyday Loans should buy it back, but if its unable to buy it back, the responsibility is on it to ensure debt purchaser to put things right for Ms H.

To put things right, Everyday Loans should:

- remove all interest and charges applied to the loan, and
- treat all payments Ms H has made as repayments towards the capital of £1,200.
- There's likely to be an outstanding balance so Everyday Loans should agree a suitable repayment plan with Ms H.
- Once the capital has been fully repaid, Everyday Loans should remove any adverse information recorded on Ms H's credit file about this loan.

†HM Revenue & Customs requires Everyday Loans to take off tax from this interest. Everyday Loans must give Ms H a certificate showing how much tax it's taken off if she asks for one.

My final decision

For the reasons given above, I uphold Ms H's complaint and direct Everyday Lending

Limited to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 10 February 2023.

Oyetola Oduola
Ombudsman