DRN-3934485

The complaint

Miss N, through her representative, complains that Everyday Lending Limited lent to her when she could not afford it.

What happened

Miss N took one loan for £3,100 in May 2019 to be repaid over 36 months at £272.33 each month. The reason for the loan was for debt consolidation.

After Miss N had complained to Everyday Lending it issued its final response letter (FRL) in which it said that it had carried out the right checks and it did not uphold her complaint.

Miss N's representative referred it to the Financial Ombudsman Service where one of our adjudicators thought that Everyday Lending should put things right for Miss N.

Miss N agreed and Everyday Lending has acknowledged receipt of the adjudicator's view but has not responded in detail. The unresolved complaint was passed to me 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.

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 Lending complete reasonable and proportionate checks to satisfy itself that Miss N would be able to repay the loan in a sustainable way?

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

The rules and regulations in place required Everyday Lending to carry out a reasonable and proportionate assessment of Miss N's ability to make the repayments under this agreement. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower-focused" – so Everyday Lending had to think about whether repaying the loan would be sustainable. In practice this meant that the business had to ensure that making the repayments on the loan wouldn't cause Miss N 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 Lending to simply think about the likelihood of it getting its money back - it had to consider the impact of the loan repayments on Miss N. 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 a reasonable and proportionate 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 of time 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've carefully considered all the arguments, evidence and information provided in this context and what this all means for Miss N's complaint.

Everyday Lending asked Miss N about her income and expenses. Miss N told it that her net monthly income was £1,527. It verified that with two payslip copies for April and May 2019. One was for a figure over £2,000 and the other was for £919 as net pay. So, it appears to have averaged out those figures to proceed with her income as being around £1,527. And this demonstrates that the nature of Miss N's job led to a variable salary amount each month which is not a good foundation for a person to take a loan costing £272 a month for three years.

Miss N informed it of her expenses (including her other credit commitments) which Everyday Lending increased using statistical data. It was an increased figure of £838 a month which it had calculated to include £200 a month 'rent' to her parents with whom she was living, plus about £188 for credit commitments and around £450 for other expenses.

Everyday Lending carried out a credit search. That showed Miss N had five payday loan accounts outstanding, two of which had been taken in April 2019 – just the month before she had approached it for this loan. She had other smaller credit accounts as well.

I think Everyday Lending's checks were proportionate but it didn't react appropriately to the information it received. I say that because five pay day loans is excessive and demonstrates that before Miss N had approached Everyday Lending she had trouble arranging finance and keeping up with her outgoings.

Added to which, the loan was meant to consolidate the other debts but it did not pay these off for her but paid the full £3,100 into her account – I have seen the entry of the credit into her bank account. That meant that it was not lending to her safe in the knowledge that its capital was going to alleviate her monthly debt commitment costs. And meant that Miss N had her existing debt costs plus the Everyday Lending's new costs as well.

So, I don’t think Everyday Lending made a fair lending decision here to provide the loan to her.

Putting things right

I think Everyday Lending should:

- remove all interest, fees and charges applied to the loan;
- treat any payments made by Miss N as payments towards the capital sum of £3,100;
- if Miss N has paid more than the capital, then any overpayments should be refunded to her with interest* of 8% simple a year from the date they were paid to the date of settlement;
- But if there’s still an outstanding balance, Everyday Lending should come to a reasonable repayment plan with Miss N;
- remove any negative information about the loan from Miss N’s credit file.

*HM Revenue & Customs requires Everyday Lending to take off tax from this interest. It must give Miss N a certificate showing how much tax it’s taken off if she asks for one.

My final decision

My final decision is that I uphold Miss N’s complaint and I direct that Everyday Lending Limited does as I have outlined above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss N to accept or reject my decision before 21 March 2023.

Rachael Williams
Ombudsman