

Complaint

Mr B has complained about personal loans Everyday Lending Limited (trading as “Everyday Loans”) provided to him. He says that the loans were unaffordable and so shouldn’t have been provided to him.

Background

Everyday Loans initially provided Mr B with a first loan for £1,500.00 in January 2019. This loan had an APR of 181.0% and a term of 24 months. This meant that the total amount to be repaid of £3,641.76, including interest, fees and charges of £2,141.76, was due to be repaid in 24 monthly instalments of just over £150. This loan was settled early, in November 2020, with some of the proceeds from loan 2.

Everyday Loans then provided Mr B with a second loan for £3,100.00 in August 2020. £1,236.26 went towards settling the outstanding balance on loan 1. This loan had an APR of 133.6% and a term of 36 months. This meant that the total amount to be repaid of £8,824.32, including interest, fees and charges of £5,724.36, was due to be repaid in 36 monthly instalments of just over £290.

One of our adjudicators reviewed Mr B’s complaint and he thought Everyday Loans didn’t do anything wrong when providing loan 1. But he also that Everyday Loans ought to have realised that it shouldn’t have provided Mr B with loan 2. So he thought that Mr B’s complaint should be partially upheld.

Mr B and Everyday Loans weren’t able to agree on which parts, if any, of the complaint should be upheld. And as the parties were unable to reach an agreement, the case was passed to an ombudsman for a final decision.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

We’ve explained how we handle complaints about unaffordable and irresponsible lending on our website. And I’ve used this approach to help me decide Mr B’s complaint.

Having carefully considered everything I’ve decided to partially uphold Mr B’s complaint. I’ll explain why in a little more detail.

Everyday Loans needed to make sure it didn’t lend irresponsibly. In practice, what this means is Everyday Loans needed to carry out proportionate checks to be able to understand whether Mr B could afford to repay any credit it provided.

Our website sets out what we typically think about when deciding whether a lender’s checks were proportionate. Generally, we think it’s reasonable for a lender’s checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender to be able to show that it didn't continue to lend to a customer irresponsibly.

The information Everyday Loans has provided suggested that it carried out credit checks and obtained bank statements before these loans were provided. The results of which showed that at the time of loan 1, Mr B did have some existing debts and some evidence of payday lending.

Nonetheless, it looks like Everyday Loans did obtain some expenditure information from Mr B. And this suggested that Mr B was capable of making the monthly payments he was being expected to commit to. Furthermore, while I appreciate that there were periods where Mr B had been overdrawn, there wasn't anything obvious within them to suggest that the expenditure information obtained was incorrect.

Bearing in mind all of this and the fact that the loan payments appeared affordable, I'm satisfied that Everyday Loans didn't act unfairly towards Mr B when providing loan 1.

However, I do have concerns about Everyday Loans' decision to provide Mr B with loan 2. I say this because it once again carried out a credit check. The results of which showed that Mr B was significantly more indebted than he was at the time he was provided with loan 1. It also looks like he may have been in some kind of debt arrangement at this stage too. I'm also concerned at some of the information that was showing on the bank statements that Everyday Loans obtained from Mr B too.

All of this leaves me persuaded by what Mr B has said about already being in a difficult financial position at the time. And while it's possible Mr B's financial position wasn't as a result of financial difficulty, I'd add that my experience of these types of cases suggest this is unlikely, in the absence of any reasonable or plausible arguments from Everyday Loans, I've been persuaded to accept Mr B's version of events here.

As this is the case, I do think that Mr B's existing financial position meant that he was unlikely to be able to afford the payments to loan 2, without undue difficulty or borrowing further. And I'm satisfied that reasonable and proportionate checks would more likely than not have shown Everyday Loans that it shouldn't have provided loan 2 to Mr B. As Everyday Loans provided Mr B with loan 2, notwithstanding this, I'm satisfied it failed to act fairly and reasonably towards him.

Mr B ended up paying and is still being expected to pay interest, fees and charges on a loan he shouldn't have been provided with. So I'm satisfied that Mr B lost out because of what Everyday Loans did wrong and that it should put things right.

Fair compensation – what Everyday Loans needs to do to put things right for Mr B

Having thought about everything, Everyday Loans should put things right for Mr B by:

- removing all interest, fees and charges applied to loan 2 from the outset. The payments Mr B made, whether to Everyday Loans or any third-party debt purchaser, should be deducted from the new starting balance – the £3,100.00 originally lent. If Mr B has already paid Everyday Loans more than £3,100.00 then it should treat any extra as overpayments. And any overpayments should be refunded to Mr B;

- adding interest at 8% per year simple on any overpayments, if any, from the date they were made by Mr B to the date of settlement†
- if no outstanding balance remains after all adjustments have been made, all adverse information Everyday Loans recorded about loan 2 should be removed from Mr B's credit file.

† HM Revenue & Customs requires Everyday Loans to take off tax from this interest. Everyday Loans must give Mr B a certificate showing how much tax it has taken off if he asks for one.

My final decision

For the reasons I've explained, I'm upholding Mr B's complaint. Everyday Lending Limited should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 6 June 2023.

Jeshen Narayanan
Ombudsman