DRN-4076118

The complaint

Mrs A, through a representative, says Everyday Lending Limited (ELL), trading as Everyday Loans, irresponsibly lent to her.

What happened

Mrs A took out an instalment loan from ELL in July 2019 for £2,000 over 24 months. The monthly repayments were £163.75 and the total repayable was £3,930. I understand there remains an outstanding balance that is being repaid through a debt management plan.

Mrs A says she was on benefits and this loan caused her a lot of worry trying to keep up with the repayments.

Our investigator upheld Mrs A's complaint. He said ELL's checks showed the loan would not be sustainably affordable for Mrs A, and it had not properly taken into account the cost of Mrs A repaying her existing credit card debt sustainably.

Unhappy with this assessment ELL asked for an ombudsman's review. It said, in summary, Mrs A's credit file and bank statements did not suggest the loan would be unaffordable – she would be left with £117.74 of monthly disposable income.

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.

Our approach to unaffordable/irresponsible lending complaints is set out on our website and I've followed it here.

The rules and regulations when ELL lent to Mrs A required it to carry out a reasonable and proportionate assessment of whether she could afford to repay what she owed in a sustainable manner. This is sometimes referred to as an affordability assessment or an affordability check.

The checks also had to be borrower-focused. So ELL had to think about whether repaying the credit sustainably would cause any difficulties or adverse consequences for Mrs A. In other words, it wasn't enough for ELL to simply think about the likelihood of it getting its money back, it had to consider the impact of the loan repayments on Mrs A.

Checks also had to be proportionate to the specific circumstances of each loan application. In general, what makes up 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 and cost of credit they have applied for.

In light of this, I think that a reasonable and proportionate check ought generally to have been *more* thorough:

- the lower a customer's income (reflecting that it could be more difficult to make any repayments to credit from a lower level of income);
- the higher the amount due to be repaid (reflecting that it could be more difficult to meet higher repayments from a particular level of income);
- the longer the period of time a borrower will be indebted for (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make repayments for an extended period).

There may also be other factors which could influence how detailed a proportionate check should've been for a given application – including (but not limited to) any indications of borrower vulnerability and any foreseeable changes in future circumstances. I've kept all of this in mind when thinking about whether ELL did what it needed to before agreeing to lend to Mrs A. So to reach my conclusion I have considered the following questions:

- did ELL complete reasonable and proportionate checks when assessing Mrs A's loan application to satisfy itself that she would be able to repay the loan in a sustainable way?
- if not, what would reasonable and proportionate checks have shown?
- did ELL make a fair lending decision?
- did ELL act unfairly or unreasonably in some other way?

I can see ELL asked for some information from Mrs A before it approved the loan. It asked for details of her income and checked this on recent bank statements. It estimated her living costs using national statistics and added a buffer to cover unexpected expenses. It also checked Mrs A's credit file to understand her existing monthly credit commitments and credit history. It asked about the purpose of the loan which was debt consolidation and holiday costs. From these checks combined ELL concluded Mrs A could afford to take on the loan as she would have £117.74 of disposable income left each month.

I think these checks were proportionate, but I am not satisfied ELL made a fair lending decision based on the information it gathered. ELL calculated from its checks that Mrs A was spending 42% of her income on repaying her debts each month. Whilst this loan was in part for debt consolidation, even taking that into account it increased the amount of her income Mrs A would need to spend on debt each month to 44%. And this was understated as ELL based its assessment on Mrs A making the minimum monthly repayments for her credit card debt, rather than allowing for a higher sustainable repayment as it was required to. This meant her disposable income was around £65 lower than it had calculated.

So in the round I think it ought to have realised there was a high risk Mrs A would not be able to sustainably repay this loan and would most likely need to borrow again to repay, or suffer other financial harm – particularly as she had a relatively low income. As indeed went on to happen.

It follows I think ELL was wrong to lend to Mrs A.

I have not seen any evidence that ELL acted unfairly or unreasonably in some other way towards Mrs A.

Putting things right

It’s reasonable for Mrs A to repay the capital amount that she borrowed as she had the benefit of that money. But she has paid interest and charges on a loan that shouldn’t have been given to her. So she has lost out and ELL needs to put things right.

It should:

- Refund all the interest and charges on the loan – so add up the total Mrs A repaid and deduct the sum from the capital amount.
- If reworking Mrs A’s loan account results in her having effectively made payments above the original capital borrowed, then ELL should refund these overpayments with 8% simple interest calculated on the overpayments, from the date the overpayments would have arisen, to the date of settlement*.
- If reworking Mrs A’s loan account results in an outstanding capital balance, ELL try to agree an affordable repayment plan with Mrs A via her debt management plan.
- Remove any adverse information recorded on Mrs A’s credit file in relation to the loan once the capital balance has been repaid in full.

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

My final decision

I am upholding Mrs A’s complaint. Everyday Lending Limited (ELL), trading as Everyday Loans, must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs A to accept or reject my decision before 20 June 2023.

Rebecca Connelley
Ombudsman