The complaint

Miss V says Everyday Lending Limited (ELL), trading as Everyday Loans, irresponsibly lent to her.

What happened

Miss V took out three instalment loans from ELL. A summary of her borrowing follows:

Loan	taken out	value, £	term in months	monthly repayment, £	total repayable, £
1	Jul-19	3,000	36	234.42	8,439.12
2	Jul-20	2,000	24	187.19	4,492.56
3	Feb-21	5,000	36	263.54	9,487.44

Miss V says she was in spiral of debt and as ELL nevertheless agreed to lend to her at extortionate interest rates she ended up having to enter a debt management plan (DMP). This has impacted her mental health. She says ELL did not help her when she rang for advice. She says ELL has made things very difficult compared to other creditors.

Miss V wants the existing debt to be written-off and asks for an apology.

Our investigator upheld Miss V’s complaint. She said ELL was wrong to lend to Miss V as there was evidence she was having problems managing her money.

ELL disagreed with this assessment and asked for an ombudsman’s review. It said its affordability calculations showed Miss V’s loans were affordable when they were taken out.

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 Miss V 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 Miss V. 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 Miss V.

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 Miss V. So to reach my conclusion I have considered the following questions:

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

I can see ELL asked for some information from Miss V before it approved the loans. It asked for details of her income and checked this on pay slips. It asked for copies of recent bank statements. It estimated her living costs using national statistics and added a buffer to cover unexpected expenses. It also checked Miss V's credit file to understand her existing monthly credit commitments and credit history each time. It asked about the purpose of the loans, Miss V said they were for debt consolidation. From these checks combined ELL concluded Miss V could afford to take on the loans and repay them sustainably.

I think these checks were proportionate for the loans. But based on the information it gathered I 'm not satisfied ELL made fair lending decisions. I'll explain why.

Loan 1

ELL's checks for loan 1 showed Miss V had a monthly income of £1,319 and non-discretionary outgoings of £1,463.73. So initially the loan did not seem affordable. But Miss V was going to use it for debt consolidation and based on which debts she told ELL she was going to settle this reduced her existing credit commitments to £362.21. ELL felt she would therefore have enough disposable income remaining after this new loan (£246.26) for it to be affordable.

But ELL was required to do more than check the affordability for Miss V on a pounds and pence basis, it needed to make sure she would suffer no adverse financial consequences and I am not persuaded it has adequately evidenced it did this. Giving this loan would leave Miss V needing to spend around 45% of her income each month on unsecured credit. This is a large proportion of what was a relatively low income – and frequently an indicator of future financial difficulties.

So I think ELL ought to have realised that there was a high risk that Miss V would need to either borrow to repay this debt, or experience some other financial harm. ELL knew from its credit check that Miss V had needed to take out four payday loans already in 2019 – so there were already indicators of financial instability.

It follows I think ELL was wrong to give loan 1 to Miss V.

Loans 2 and 3

Miss V returned to extend her borrowing again for debt consolidation less than 12 months after she had taken out loan 1. And she was again using payday loans so I find ELL should have seen she continued to have problems managing her money. I think ELL ought to have realised that, despite the apparent pounds and pence affordability, having to repeatedly take out longer-term high-cost credit to settle short-term high-cost loans was most likely causing Miss V financial detriment. After all it was aware Miss V was taking out other high-cost loans to repay its debt. And this was the same overall pattern when Miss V returned seven months later for loan 3. I find ELL irresponsibly allowed Miss V to survive financially by borrowing to repay at a high cost.

It follows I think ELL was wrong to give loans 2 and 3 to Miss V.

Did ELL act unfairly or unreasonably in some other way?

Miss V says the interest rates were extortionate. I accept the APR was high, but Miss V had to actively engage in the application process, so I think it's likely that she was aware of what she was agreeing to pay each time. I haven't seen anything which makes me think that ELL treated Miss V unfairly or breached industry practice regarding interest charges. But the interest and charges will be refunded anyway as it has been agreed the loans shouldn't have been given.

I have also considered Miss V's comments that ELL was not helpful when she told it she was struggling. I can see from its contact notes that it did engage – but it had queries about aspects of the proposal her DMP administrator put forward. This is reasonable. I also note there is contradictory evidence from the parties about how a branch manager spoke to Miss V. But equally I note ELL apologised if the conversation had negatively impacted Miss V as that was not the intention. I do not think it needs to take any further action in this regard.

I am sorry this has all impacted Miss V's mental health and I hope she now has the support she needs.

Putting things right

It is fair for Miss V to repay the capital part of the loans she borrowed as she had the benefit of that money. But she had been charged interest and fees on loans that should not have been given to her. So ELL must:

- Add up the total amount of money Miss V received as a result of having been given all loans. The repayments Miss V made should be deducted from this amount.
- If this results in Miss V having paid more than she received, then any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement). †

- If any capital balance remains outstanding, then ELL should work with Miss V’s DMP administrator to agree a suitable payment plan.
- Remove any negative information recorded on Miss V’s credit file regarding loan 1 & 2.
- Remove negative information recorded on Miss V’s credit file in relation to loan 3 once the capital balance has been cleared.

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

My final decision

I am upholding Miss V’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 Miss V to accept or reject my decision before 11 July 2023.

Rebecca Connelley
Ombudsman