DRN-4093881

Complaint

Mr R has complained about a guarantor loan Everyday Lending Limited (trading as "Trust Two") provided to him.

He says the loan was unaffordable and so shouldn't have been provided to him in the first place.

Background

Trust Two provided Mr R with a guarantor loan for £3,000.00 in April 2019. This loan had an APR of 37.9% and a term of 42 months. This meant that the total amount to be repaid of £5,064.36, including interest, fees and charges of £2,064.36, was due to be repaid in 42 monthly instalments of just over £120.

One of our investigators reviewed Mr R's complaint and he thought Trust Two shouldn't have provided Mr R with his loan. So he thought that Mr R's complaint should be upheld.

Trust Two disagreed so 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 R's complaint.

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

Trust Two needed to make sure it didn't lend irresponsibly. In practice, what this means is Trust Two needed to carry out proportionate checks to be able to understand whether Mr R could afford to repay any credit it provided. The fact that Trust Two may also have been able to seek payments from a guarantor did not alter or dilute this obligation in any way.

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 Trust Two has provided suggested that it carried out a credit check before this loan was provided. The results of which showed that Mr R was significantly indebted.

Indeed Trust Two's own checks showed that, at best, the payments to this loan would take up pretty much all of Mr R's disposable income. And this was with the use of estimated living costs based on average data in circumstances where Mr R's credit file suggested that he fell outside the profile of the average borrower.

Trust Two says that Mr R made the payments to the loan so this means that it must have been affordable for him. However, just because the payments were made it doesn't mean that they were made sustainably – in other words, without undue difficulties or the borrower having to borrow further.

I say this while particularly mindful of the fact that borrowers tend to treat guarantor loans as if they are priority debts given they typically wish to avoid the lender pursuing the guarantor for payment.

Overall and having considered everything, I'm persuaded by what Mr R has said about already being in a difficult financial position at the time of this loan. And while it's possible Mr R's difficulties reflected his choices rather than 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 Trust Two, I've been persuaded to accept Mr R's version of events.

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

Mr R ended up paying interest, fees and charges on a guarantor loan he shouldn't have been provided with. So I'm satisfied that Mr R lost out because of what Trust Two did wrong and that it should put things right.

Fair compensation – what Trust Two needs to do to put things right for Mr R

Having thought about everything, Trust Two should put things right for Mr R by:

- refunding any interest, fees and charges actually paid by Mr R†;
- adding interest at 8% per year simple on any refunded interest payments from the date they were made by Mr R to the date of settlement†;
- removing any and all adverse information recorded on Mr R's credit file as a result of this loan.

† HM Revenue & Customs requires Trust Two to take off tax from this interest. Trust Two must give Mr R 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 R'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 R to accept or reject my decision before 28 August 2023.

Jeshen Narayanan
Ombudsman