DRN-4134038

Complaint

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

He says the loan was unaffordable.

Background

Trust Two provided Mr A with a guarantor loan for £3,500.00 in February 2020. This loan had an APR of 61.8% and a term of 24 months. This meant that the total amount to be repaid of £5,562.24, including interest, fees and charges of £2,062.24, was due to be repaid in 24 monthly instalments of just over £231.76.

One of our investigators reviewed Mr A's complaint and she thought Trust Two shouldn't have provided Mr A with his loan. So she thought that Mr A'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 A's complaint.

Having carefully considered everything I've decided to uphold Mr A'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 A 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. Trust Two says that this showed no signs of financial strain or that there was a risk this loan would put Mr A in financial difficulty.

However, the results of the credit check showed that Mr A had taken out payday loans, had made a number of other applications for credit in the lead up to this loan and was already using most of the available credit available to him on his revolving credit accounts. Furthermore, Mr A had a defaulted account within the past couple of years too. So I disagree that the credit check didn't show signs of Mr A being financially strained.

In my view, the information Trust Two gathered ought to have alerted it to the fact that Mr A was already struggling financially. And I don't think that it was fair and reasonable for Trust Two to ignore this information in favour of a disposable income calculation based on average data in circumstances where the rest of the information gathered showed Mr A fell outside the profile of the average borrower.

Overall and having considered everything, I'm persuaded by what Mr A has said about already being in a difficult financial position at the time of this loan. And while it's possible Mr A'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 A's version of events.

As this is the case, I do think that Mr A'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 A. As Trust Two provided Mr A with this loan, notwithstanding this, I'm satisfied it failed to act fairly and reasonably towards him.

Mr A ended up paying interest, fees and charges on a guarantor loan he shouldn't have been provided with. So I'm satisfied that Mr A 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 A

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

- refunding any interest, fees and charges actually paid by Mr A
- adding interest at 8% per year simple on any refunded interest payments from the date they were made by Mr A to the date of settlement†;
- removing any and all adverse information recorded on Mr A'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 A 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 A'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 A to accept or reject my decision before 11 September 2023.

Jeshen Narayanan
Ombudsman