DRN-4190246

Complaint

Mrs P has complained about a guarantor loan Everyday Lending Limited (“Trust Two”) provided to her.

She says the loan was unaffordable.

Background

Trust Two provided Mrs P with a guarantor loan for £3,000.00 in February 2020. This loan had an APR of 79.93% and a term of 36 months. This meant that the total amount to be repaid of £6,540.90, including interest, fees and charges of £3,540.90, was due to be repaid in 36 monthly instalments of just over £180.

One of our investigators reviewed Mrs P’s complaint and he thought Trust Two hadn’t acted fairly or reasonably towards Mrs P when it provided this loan, as it provided the loan in circumstances where it ought to have realised it was unaffordable. So he thought that Mrs P’s complaint should be upheld.

Trust Two disagreed and asked for an ombudsman to consider the case.

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 Mrs P’s complaint.

Having carefully considered everything I’ve decided to uphold Mrs P’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 Mrs P 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 Mrs P had defaulted on a number of previous credit commitments, was in arrears as well as over the credit limit on a credit card.

Furthermore, Trust Two's income and expenditure assessment was calculated with the use of estimated expenditure in circumstances where Mrs P's difficulties with credit suggested she fell outside the profile of the average borrower.

I've also considered what Trust Two has said about some of the funds for this loan being for consolidation. However, it's unclear to me how or what was going to be consolidated and more crucially how this loan, which was on such disadvantageous terms, was going to improve Mrs P's outgoings going forward. I say this while particularly mindful that Trust Two would have seen that Mrs P wasn't making much smaller payments to her credit card.

Overall and having considered everything, I'm persuaded by what Mrs P has said about already being in a difficult financial position at the time. And while it's possible Mrs P's troubles reflected her 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 Mrs P's version of events.

As this is the case, I do think that Mrs P's existing financial position meant that she was unlikely to be able to afford the payments to this guarantor loan, without borrowing further or suffering significant adverse consequences. And I'm therefore satisfied that reasonable and proportionate checks would more like than not have shown Trust Two that it shouldn't have provided this loan to Mrs P. As Trust Two provided Mrs P with this loan, notwithstanding this, I'm satisfied that it didn't act fairly and reasonably towards her.

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

Having thought about everything, I'm satisfied that Trust Two should put things right for Mrs P by:

- refunding all interest, fees and charges Mrs P actually paid on her loan;
- adding interest at 8% per year simple on any refunded interest payments from the date they were made by Mrs P to the date of settlement†;
- removing all adverse information it recorded on Mrs P'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 Mrs P a certificate showing how much tax it has taken off if she asks for one.

My final decision

For the reasons I've explained, I'm upholding Mrs P'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 Mrs P to accept or reject my decision before 28 August 2023.

Jeshen Narayanan
Ombudsman