DRN-4246037

Complaint

Mr C has complained about a personal loan Everyday Lending Limited (trading as “Everyday Loans”) provided to him. He says the loan was unaffordable and was therefore irresponsibly lent to him.

Background

Everyday Loans provided Mr C with a loan for £5,000.00 in November 2022. This loan had an APR of 84.6% and a term of 60 months. This meant that the total amount to be repaid of £16,294.20, including interest, fees and charges of £11,294.20, was due to be repaid in 60 monthly instalments of just over £270.

One of our adjudicators reviewed Mr C’s complaint and he thought that Everyday Loans ought to have realised that it shouldn’t have provided Mr C with his loan. So he thought that Mr C’s complaint should be upheld. Everyday Loans didn’t agree so the case was passed to an ombudsman for review.

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

Everyday Loans needed to make sure it didn’t lend irresponsibly. In practice, what this means is Everyday Loans needed to carry out proportionate checks to be able to understand whether Mr C could afford to repay any credit it provided.

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 Everyday Loans has provided suggested that it carried out credit checks before Mr C’s loan was provided. The results of which showed that Mr C was already using a significant proportion of his monthly income to repay existing credit commitments. And Everyday Loans relied on the use of average data to calculate Mr C’s living expenses when arriving at its monthly disposable income figure. This is despite the fact that Mr C’s credit file and the bank statements Everyday Loans obtained clearly showed that he didn't fit the profile of the average borrower.

I also have concerns that Mr R was also purportedly consolidating debts which had interest amounts capped to the amount originally advanced. Given this is the case (and I'd add that Everyday Loans doesn't appear to have obtained a clear written undertaking that this would be done) it's unclear to me how this loan, which was on such disadvantageous terms, was going to improve Mr R's already precarious financial position going forward.

All of this leaves me persuaded by what Mr C has said about already being in a difficult financial position at the time. And while it's possible Mr C's financial position 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 Everyday Loans, I've been persuaded to accept Mr C's version of events here.

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

Mr C ended up paying and is being expected to pay interest, fees and charges on a loan he shouldn't have been provided with. So I'm satisfied that Mr C lost out because of what Everyday Loans did wrong and that it should put things right.

Fair compensation – what Everyday Loans needs to do to put things right for Mr C

Having thought about everything, Everyday Loans should put things right for Mr C by:

- removing all interest, fees and charges applied to Mr C's loan from the outset. The payments Mr C made, whether to Everyday Loans or any third-party debt purchaser, should be deducted from the new starting balance – the £5,000.00 originally lent. If Mr C has already paid Everyday Loans more than £5,000.00 then it should treat any extra as overpayments. And any overpayments should be refunded to Mr C;

- adding interest at 8% per year simple on any overpayments, if any, from the date they were made by Mr C to the date of settlement†

- if no outstanding balance remains after all adjustments have been made, all adverse information Everyday Loans recorded about this loan should be removed from Mr C's credit file.

† HM Revenue & Customs requires Everyday Loans to take off tax from this interest. Everyday Loans must give Mr C 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 C'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 C to accept or reject my decision before 17 August 2023.

Jeshen Narayanan
Ombudsman