DRN-4332588

Complaint

Mr O has complained about personal loans Everyday Lending Limited (trading as "Everyday Loans") provided to him.

He says the loans were unaffordable and were therefore irresponsibly lent to him.

Background

Everyday Loans provided Mr O with an initial loan for £3,000.00 in February 2018. This loan had an APR of 106.8% and a term of 24 months. This meant that the total amount to be repaid of £5,690.88, including interest, fees and charges of £2,690.88, was due to be repaid in 24 monthly instalments of £237.12. This loan was settled early in May 2018.

Everyday Loans then provided Mr O with a second loan for £5,000.00 in March 2019. This loan had an APR of 81.1% and a term of 36 months. This meant that the total amount to be repaid of £10,766.52, including interest, fees and charges of £5,766.52, was due to be repaid in 36 monthly instalments of £299.07.

One of our investigators reviewed Mr O's complaint and eventually reached the conclusion that Everyday Loans didn't do anything wrong when providing Mr O with his loans. So she didn't think that Mr O's complaint should be upheld.

My provisional decision of 21 August 2023

I issued a provisional decision – on 21 August 2023 - setting out why I intended to uphold Mr O's complaint. I won't copy that decision in full, but I will instead provide a summary of my findings.

I started by explaining that we've set out how we handle complaints about unaffordable and irresponsible lending on our website. And that I had used this approach to help me provisionally decide Mr O's complaint.

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 O 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.

I was concerned that Everyday Loans' own checks in the lead up to loan 1 showed that he'd had recent difficulties repaying credit in the form of defaults and outstanding balances with debt purchasers. This didn't even take into account that Mr O's wife was also significantly indebted and that Mr O appeared to be the main wage earner for the household.
I was also concerned that Mr O's indebtedness increased in the period between loans 1 and 2. And loan 2 for a larger amount than loan 1, with significantly larger monthly payments. This was in circumstances where the first monthly payment for loan 1 was returned unpaid as well.

I thought that it was also important to note that Everyday Loans was required to establish whether Mr O could sustainably make his loan repayments – not just whether the loan payments were technically affordable on a strict pounds and pence calculation. The loan payments being affordable on a strict pounds and pence basis might be an indication that a consumer could sustainably make the repayments.

But, in my view, it didn't automatically follow that this was the case. And as a borrower shouldn't have to borrow further in order to make their payments, it followed that a lender should realise, or it ought fairly and reasonably to realise, that a borrower wouldn't be able to sustainably make their repayments if it was on notice that they were unlikely to be able to make their repayments without borrowing further.

Everyday Loans' own notes appeared to show that Mr O was constantly calling and asking for a loan top-up in the months leading up to loan 2. In my view, this indicated a reliance on credit. Furthermore, the underwriting notes for loan 2 also appeared to indicate that Everyday Loans knew that Mr O's wife had lost her job. Yet Everyday Loans appeared to accept that Mr O was once again on top of things despite the credit checks it carried out appearing to show otherwise. Indeed the number of defaults and accounts with debt collection agencies didn't tally with someone who was repaying loans quickly because they received large bonuses.

In my view, Everyday Loans appeared to have ignored a number of clear warning signs in preference of what the other information obtained indicated were over optimistic assessments of disposable income.

Bearing all of this in mind, I was satisfied that the information Everyday Loans obtained ought reasonably to have alerted it to the fact that Mr O was unlikely to have been able to repay these loans without borrowing further or experiencing financial difficulty. And I was also satisfied that the information Everyday Loans gathered ought to have alerted it to the fact that it shouldn't have provided these loans to Mr O.

As Everyday Loans provided Mr O with these loans, notwithstanding this, I was minded to conclude that it failed to act fairly and reasonably towards him. And this left me intending to uphold this complaint about both loans.

Mr O ended up paying interest, fees and charges on loans he shouldn't have been provided with. So it was my intention to find that Mr O lost out because of what Everyday Loans did wrong and issue a final decision which directed Everyday Loans to put things right for Mr O.

Responses to my provisional decision

Mr O confirmed that he was happy with my provisional decision and that he had nothing further to add.

Everyday Loans didn't respond to my provisional decision or ask for any additional time to do so.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I set out in some detail why I intended to uphold Mr O's complaint in my provisional decision of 21 August 2023. As I've not been provided with anything further by the parties to consider, I've not been persuaded to alter my conclusions.

So I'm still upholding Mr O's complaint and I remain satisfied that Everyday Loans needs to put things right.

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

Having thought about everything, I'm satisfied that it would be fair and reasonable in all the circumstances of Mr O's complaint for Everyday Loans to put things right for Mr O by:

- refunding all interest, fees and charges Mr O paid on his loans;

- adding interest at 8% per year simple on any refunded payments from the date they were made by Mr O to the date of settlement†

- removing any and all adverse information it recorded about these loans from Mr O's credit file.

† HM Revenue & Customs requires Everyday Loans to take off tax from this interest. Everyday Loans must give Mr O a certificate showing how much tax it has taken off if he asks for one.

My final decision

For the reasons I've explained above and in my provisional decision of 21 August 2023, I'm upholding Mr O'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 O to accept or reject my decision before 3 October 2023.

Jeshen Narayanan
Ombudsman