complaint

Mr C complains that Everyday Lending Limited ("ELL") lent to him in an irresponsible manner.

background

Mr C was given a single loan by ELL. He borrowed £1,500 in July 2016 that he agreed to repay in 24 monthly instalments.

Mr C's complaint has been assessed by one of our adjudicators. Whilst he thought that the checks ELL had done before agreeing the loan had been proportionate, he thought the results of those checks should have led to the loan application being declined. So he asked ELL to pay Mr C some compensation.

ELL didn't agree with that assessment. So, as the complaint hasn't been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process. If Mr C accepts my decision it is legally binding on both parties.

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 set out our approach to unaffordable/irresponsible lending complaints on our website and I've kept this in mind while deciding Mr C's complaint.

The rules and regulations at the time ELL gave this loan to Mr C required it to carry out a reasonable and proportionate assessment of whether he could afford to repay what he owed in a sustainable manner. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower" focused – so ELL had to think about whether repaying the credit sustainably would cause difficulties or adverse consequences for Mr C. In practice this meant that ELL had to ensure that making the repayments wouldn't cause Mr C undue difficulty or adverse consequences. In other words, it wasn't enough for ELL to simply think about the likelihood of it getting its money back, it had to consider the impact of any repayments on Mr C.

Checks also had to be "proportionate" to the specific circumstances of the loan application. In general, what constitutes a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the particular circumstances of the consumer (e.g. their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount / type / cost of credit they are seeking.

In light of this, I think that a reasonable and proportionate check ought generally to have been *more* thorough:

- the *lower* a customer's income (reflecting that it could be more difficult to make any repayments to credit from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet higher repayments from a particular level of income);

- the *longer* the period of time a borrower will be indebted for (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make repayments for an extended period).

There may also be other factors which could influence how detailed a proportionate check should've been for a given application – including (but not limited to) any indications of borrower vulnerability and any foreseeable changes in future circumstances. I've kept all of this in mind when thinking about whether ELL did what it needed to before agreeing to lend to Mr C.

ELL gathered some information from Mr C before it agreed the loan. It asked him for details of his income, and his normal expenditure. It checked his credit file to assess how much he was repaying to other creditors. And it asked Mr C for copies of his bank statements so it could verify what he'd said about his finances.

Mr C was entering into a significant commitment with ELL. He would need to make monthly repayments for a period of two years. So I think it was reasonable that ELL wanted to gather, and independently check, some detailed information about Mr C's financial circumstances before it agreed to lend to him. I think that the checks I've described above were enough for it to do that. So I think that the checks ELL did were proportionate.

But simply doing proportionate checks isn't always enough. A lender also needs to react appropriately to the information that is shown by those checks. And that might lead a lender to undertake further checks, or even to decide not to lend at all.

The checks that ELL performed showed that Mr C had spent relatively heavily on online gambling transactions over the month before the loan had been requested – that spending was present for the majority of the period that was covered by the bank statements he'd supplied to ELL. ELL identified that his pattern of spending might be of concern and discussed the matter with Mr C before it agreed the loan.

Mr C explained to ELL that the gambling spending was not evidence that he was addicted to gambling. He explained that it had taken place during the duration of a major summer football tournament and that he had now closed his gambling account. ELL accepted Mr C's explanation and agreed to give him the loan.

Mr C's gambling expenditure was significant. In the month before he applied for the loan he had spent an amount in excess of his normal income. And in a period of four days the week before the loan was agreed his further gambling spending amounted to almost the equivalent of his normal income. Whilst Mr C's explanation of his gambling expenditure might have been plausible I don't think it was reasonable for ELL to simply rely on what he'd said, given the excessive nature of that recent spending.
I think it might have been reasonable for ELL to ask Mr C for some further bank statements so it could ensure that his explanation of his gambling spend being a one off was in fact true. So I've looked at Mr C's bank statements for a further two months before the loan to see what those additional checks would have shown ELL.

Mr C's earlier bank statements show clear evidence that he was in fact regularly spending large amounts on online gambling transactions. It is clear from those statements that the spending wasn't, as Mr C had suggested, simply related to the summer football tournament. His statements appear to show that he was in fact suffering from an addiction to gambling, and he was funding that expenditure by borrowing from a range of other lenders. I don't think, had it seen that additional evidence, that ELL would have agreed to give this loan to Mr C.

So in summary, I think that ELL should have done further checks before lending to Mr C. And I think those additional checks would have identified that Mr C's gambling expenditure demonstrated a likely addiction. I think that would have led a responsible lender to decline his loan application. So I don't think ELL should have given this loan to Mr C and it needs to put things right.

putting things right

I don't know the current status of Mr C's loan. I am assuming that there is still a balance outstanding. However I have also accounted, in the redress below, for the possibility that the loan has by now been fully repaid.

If a balance remains outstanding on the loan, ELL should;

- remove any interest and charges still outstanding on the loan and treat all the payments Mr C made towards this loan as payments towards the capital
- if reworking Mr C's loan account as I've directed results in Mr C effectively having made payments above the original capital borrowed, then ELL should refund these overpayments with 8% simple interest calculated on the overpayments, from the date the overpayments would have arisen, to the date of settlement†.
- If reworking Mr C's loan account leaves an amount of capital still to be paid, then I remind ELL that it should take a sympathetic view when seeking to agree an affordable repayment plan with Mr C.
- remove any adverse information recorded on Mr C's credit file in relation to the loan.

If the loan has been fully repaid, ELL should;

- refund all the interest and charges Mr C paid on the loan
- pay interest of 8% simple a year on any refunded interest and charges from the date they were paid (if they were) to the date of settlement†
- remove any adverse information recorded on Mr C's credit file in relation to the loan

† HM Revenue & Customs requires ELL to take off tax from this interest. ELL must give Mr C a certificate showing how much tax it's taken off if he asks for one.

my final decision

My final decision is that I uphold Mr C's complaint and direct Everyday Lending Limited to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 12 March 2021.

Paul Reilly
ombudsman