DRN-3366984

Financial Ombudsman Service

The complaint

Miss M complains that Everyday Lending Limited trading as Everyday Loans ("ELL") lent to her in an irresponsible manner. She further complains that ELL told her that the interest rate on the loan would reduce as her credit score improved. She says no reviews took place for some time, and then she was told that a recent credit search by a mobile phone company meant that her credit score hadn't improved.

What happened

Miss M was given a loan by ELL in November 2020. She borrowed £2,000 and agreed to repay the loan in 24 monthly instalments. A balance remained outstanding when Miss M made her complaint.

Miss M's complaint has been assessed by one of our investigators. He thought that the results of ELL's checks should have led the lender to conclude that Miss M was facing problems managing her money. So he didn't think the loan should have been agreed, and he asked ELL to put things right for Miss M. And because our investigator had asked ELL to remove any interest that it had added to the loan he didn't think he needed to consider the part of Miss M's complaint about what ELL had said to her about the interest rate of the loan reducing as her credit score improved.

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 M accepts my decision it is legally binding on both parties.

What I've decided – and why

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 Miss M's complaint.

The rules and regulations at the time ELL gave this loan to Miss M required it to carry out a reasonable and proportionate assessment of whether she could afford to repay what she 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 Miss M. In practice this meant that ELL had to ensure that making the repayments wouldn't cause Miss M 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 Miss M.

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 Miss M.

ELL gathered some information from Miss M before it agreed the loan. It asked her for details of her income, and her normal housing costs. It then used some industry statistical data to estimate the remainder of Miss M's expenditure. And it checked her credit file to see how much she was paying to other lenders, and how she had managed credit in the past.

Miss M was entering into a significant commitment with ELL. She would need to make monthly repayments for a period of two years. So I think it was right that ELL wanted to gather, and independently check, some detailed information about Miss M's financial circumstances before it agreed to lend to her. I think that the checks I've described above were sufficient to achieve that aim – I think that ELL's checks were proportionate.

But simply performing proportionate checks isn't always enough. A lender also needs to react appropriately to the information shown by those checks. Those results might sometimes lead a lender to undertake further enquiries into a consumer's financial situation. Or, in some cases, the results might lead a lender to decline a loan application outright. And that is what I think should have happened in this case.

Miss M's credit file showed that she had faced problems managing her money in the relatively recent past. She had two defaults from less than six months before her loan application. And two other defaults from the year previous to that. As ELL will be aware it is often the case that consumers who have faced problems managing their money in the past, face similar problems again in the future.

I accept that Miss M explained to ELL that some of the recent adverse credit information from 2019 was as a result of the breakdown of a relationship. But I don't think that explains the problems that had happened more recently. I think the presence of such recent issues would suggest that it was likely that Miss M was facing problems managing her money. And it would have been responsible for ELL to allow a longer period to elapse for Miss M to demonstrate that her finances were back on track.

Miss M told ELL that she wanted to use the loan to consolidate some other borrowing. But, when looking at what Miss M owed, including those accounts that had been defaulted, the loan from ELL would still leave her with a substantial amount of debt to service. I don't think it would have been reasonable for ELL to conclude that its loan would mean that all Miss M's debt had been refinanced.

So, on balance, I don't think it was reasonable for ELL to conclude that Miss M would be able to repay any new borrowing in a sustainable manner. Her bank statements showed that she was persistently overdrawn, and appeared to have little ability to reduce that, or any of her other debts, in a meaningful way. That would suggest that she had little disposable income each month that she could use to finance additional loan repayments. So I don't think ELL should have given the loan to Miss M and it needs to put things right.

As I'll go on to explain below, I don't think ELL should profit from the loan it gave to Miss M. So I will be directing that ELL doesn't charge Miss M any interest on her borrowing. Once that is done, like our investigator, I think that will resolve any complaint that Miss M might have about the rate of interest she has been charged on the loan, or that it hasn't been reduced. So I don't need to consider that part of her complaint any further.

Putting things right

I don't think ELL should have agreed to lend to Miss M in November 2020.

- ELL should remove any interest and charges still outstanding on the loan and treat all the payments Miss M made towards the loan as payments towards the capital

- if reworking Miss M's loan account as I've directed results in Miss M 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†.

- Miss M has told us that she is finding it difficult to meet her repayments on the loan. So if reworking Miss M's loan account leaves an amount of capital still to be paid, I remind ELL that it should take a sympathetic view should she ask it to agree an affordable repayment arrangement for the revised balance.

- remove any adverse information already recorded on Miss M's credit file in relation to the loan

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

My final decision

My final decision is that I uphold Miss M'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 Miss M to accept or reject my decision before 2 May 2022.

Paul Reilly
Ombudsman