The complaint

Miss R complained that Everyday Lending Limited trading as Everyday Loans lent to her irresponsibly and provided lending that was unaffordable.

What happened

Miss R took out a loan with Everyday Loans as follows:

Date taken	Loan amount	Term	Monthly repayment	Total amount repayable
January 2019	£1,700	18 months	£194.36	£3,498.48.

The loan purpose was debt consolidation – in other words, it was taken out to repay other debt.

When Miss R complained to Everyday Loans it didn't uphold her complaint so she brought her complaint to us. One of our investigators looked at the complaint and he didn't think Everyday Loans should have provided the loan. Our investigator set out directions indicating what Everyday Loans should do to put things right.

Everyday Loans disagreed that it had done anything wrong. So, as the complaint hasn't been settled, it comes to me for a decision.

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 general approach to complaints about unaffordable/irresponsible lending - including all of the relevant rules, guidance and good industry practice - on our website. Having thought about everything, I agree with our investigator for broadly the same reasons.

The rules don't say what a lender should look at before agreeing to lend. But reasonable and proportionate checks should be carried out.

Lenders must work out if a borrower can sustainably afford the loan repayments alongside other reasonable expenses the borrower also has to pay. This should include more than just checking that the loan payments look affordable on a strict pounds and pence calculation – a proportionate check might also require the lender to find out the borrower's credit history and/or take further steps to verify the borrower's overall financial situation.

If reasonable and proportionate checks weren't carried out, I need to consider if a loan would've been approved if the checks had been done. If proportionate checks were done and a loan looks affordable, a lender still needs to think about whether there's any other reason why it would be irresponsible or unfair to lend. For example, if the lender should've realised that the loan was likely to lead to significant adverse consequences or more money problems for a borrower who is already struggling with debt that can't be repaid in a sustainable way.

Everyday Loans asked Miss R about her income and expenses – including what she spent on her credit commitments. It also did its own credit check to understand Miss R's credit history and looked at two months' worth of bank statements. Everyday Loans recorded Miss R's monthly take home pay was around £1,506. Everyday Loans also took into account nationally available statistics when thinking about Miss R's likely spending and included an additional 'buffer' to account for any change in circumstances or one-off additional expenses. Based on this, Everyday Loans said Miss R should've been able to afford the monthly repayment on this loan as she should still have had around £273 spare cash left after paying for this loan as she was using it to clear other debt currently costing her around £826 each month.

I've taken carefully into account everything Everyday Loans has said in response to our investigator's assessment about the way it assessed affordability. And I've thought carefully about what I think a responsible lender should have made of all this information and in particular whether it was enough for Everyday Loans to make a fair decision to lend.

Like our investigator, I think Everyday Loans should have been concerned to see that when Miss R applied for this loan it worked out that her debt servicing costs to existing creditors were already around £1,342 monthly. This amount was such a significant proportion of her take home pay it was a clear indication that Miss R had become over-reliant on credit and, in reality, was already experiencing financial difficulty. I think that's borne out by the fact that Everyday Loans' credit checks showed clear signs of financial stress. She had credit cards close to and over their limits. And it was obvious from bank statements that Everyday Loans saw during the loan application process that she had taken out three other new short-term loans during the two previous months when she borrowed overall more than her monthly take home pay. Everyday Loans saw that Miss R was charged £50 in respect of unarranged overdraft fees in each of the two months running up to her applying for this loan.

I think Everyday Loans should've realised that the information it had gathered showed that managing her debt had got beyond Miss R's control and recognised the serious risk that this loan was likely to add to her overall indebtedness and financial difficulty – particularly as the monthly repayments for this loan would still mean Miss R needed to spend around a third of her earnings (at least) just on meeting her credit commitments.

I've taken into account that Miss R received some additional income but I think it's fair to say this included benefits that were paid based on her circumstances and specifically intended to help cover other costs – not repay additional debt. And whilst I've noted what Everyday Loans has said about Miss R's spending on non-essentials, I think her bank statements provided Everyday Loans with a useful insight into her actual financial situation at the time.

And it could've seen that Miss R didn't have available income to be able to make the loan repayments in a sustainable way, regardless of what its affordability calculation appeared to show. In reality, she was over-reliant on credit to subsidise her everyday costs and fund her borrowing.

I've taken into account that Everyday Loans understood that the loan was intended for debt consolidation. But Everyday Loans didn't have control over how Miss R used the loan as it paid the loan balance to her. Having seen the extent of her evident reliance on taking out expensive credit, I think it was apparent that there was a real risk Miss R would use the loan to meet her immediate financial demands. So all the indications were that she would most likely remain in serious financial trouble regardless. And, as mentioned above, it was in any event unrealistic to expect her to be able to commit to paying such a significant level of her income towards debt repayments over the loan term. So I don't think Everyday Loans should've provided this loan.

As Miss R has been further indebted with a high amount of interest on a loan that she shouldn't have been provided with she has lost out as a result of what Everyday Loans did wrong. I think Everyday Loans needs to take the following steps to put things right.

Putting things right

Our investigator didn't recommend that Everyday Loans should pay any additional redress. Miss R hasn't commented on that and I haven't seen anything which makes me think Everyday Loans acted unfairly towards Miss R in any other way. So I'm not awarding any additional redress.

And I think it is fair and reasonable for Miss R to repay the capital amount that she borrowed, because she had the benefit of that lending. But she has been charged extra for a loan that should not have been provided to her.

In line with this Service's approach, Miss R shouldn't repay more than the capital amount she borrowed.

If Everyday Loans sold any outstanding debt it should buy this back if able to do so and then take the following steps. Otherwise, Everyday Loans should liaise with the new debt owner to achieve the results outlined below and do the following:

- add up the total amount of money Miss R received as a result of having been given this loan. The repayments Miss R made should be deducted from this amount.
- If this results in Miss R having paid more than she received, then any overpayments should be refunded along with 8% simple interest* (calculated from the date the overpayments were made until the date of settlement).
- If any capital balance remains outstanding, then Everyday Loans should attempt to arrange an affordable/suitable payment plan with Miss R bearing in mind the need to treat her positively and sympathetically if she still needs further time to pay what she owes.
- Whilst it's fair that Miss R's credit file is an accurate reflection of her financial history, it's unfair that she should be disadvantaged by the decision to lend. So Everyday Loans should remove any negative information recorded on Miss R's credit file regarding the loan.

*HM Revenue & Customs requires Everyday Loans to deduct tax from this interest. Everyday Loans should give Miss R a certificate showing how much tax has been deducted if she asks for one.

My final decision

I uphold Miss R's complaint and direct Everyday Lending Limited trading as Everyday Loans to take the steps I've set out above to put things right.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 22 March 2022.

Susan Webb

Ombudsman