

The complaint

Mr W is unhappy that Everyday Lending Limited trading as Everyday Loans provided him with a loan when he couldn't afford it.

He's also unhappy with how Everyday Loans dealt with things after he'd let it know he was experiencing financial difficulties.

What happened

Mr W was granted a loan with Everyday Loans in August 2018. The capital amount borrowed was £5,000 over 60 months, the APR 58.4%, total amount repayable £13,040 and the monthly repayment amount £217.34.

In November 2018, Mr W approached Citizens Advice for help with financial difficulties he was experiencing and it assisted him with regards to debt management. There followed a period of time where Citizens Advice engaged Everyday Loans (and other lenders) on Mr W's behalf about the repayment of what he owed. There was also some direct contact between Everyday Loans and Mr W.

In December 2019 Mr W complained about Everyday Loans' decision to grant him the loan.

Everyday Loans upheld the complaint on the grounds that the loan shouldn't have been approved – given evidence of gambling transactions and Mr W's overall credit profile.

It offered to only require Mr W to repay the capital amount borrowed, to agree an affordable repayment plan for the remaining balance (capital borrowed less total repayments Mr W had made) and to remove details of the loan from his credit file.

Mr W didn't think Everyday Loans' offer went far enough and he referred the complaint to this Service. He said that Everyday Loans hadn't treated him fairly after he had let it know about his financial difficulties, because it hadn't been prepared to remove or freeze any interest or charges. Also, that he had received excessive contact from them in relation to repayment of the debt.

Mr W also said that when it granted him the loan, Everyday Loans had been aware of his difficulties with alcohol and gambling – and that it disregarded this information in order to grant him the loan.

He said that the money borrowed was quickly spent and lost on gambling and that this had left him feeling suicidal.

He said that because of this, he thought Everyday Loans should waive the whole amount i.e. including the capital he had borrowed.

An investigator here looked into things and gave her view on the matter. She said, in summary, that she thought Everyday Loans' offer to settle the complaint was fair.

Mr W still thought that Everyday Loans should do more, so the complaint has been passed

to me to decide.

I requested further information from Everyday Loans, including its records from when the loan was taken out and customer contact history. I asked for its comments on what Mr W had said about information having been intentionally disregarded in order for the loan to be granted.

Everyday Loans provided the requested information. In terms of what Mr W had said about information having been intentionally disregarded, it said that it couldn't comment on this.

I shared some provisional thoughts on the case with both parties, as follows:

Generally speaking, a write-off of capital may be appropriate in the following scenario:

- At the point it agreed to the loan, the lender was aware that the prospective borrower would struggle to make the loan repayments and was in a vulnerable position.*
- The borrower is now experiencing severe financial difficulty, the unaffordable/irresponsible lending has been a significant contributing factor to this and there is little or no prospect of the borrower being able to repay the capital.*

From what I've seen on file, Mr W already had reasonably significant debts at the point he applied for the ELL loan. And he has been able, with some assistance, to get back towards something of an even keel with his finances. Bearing this in mind, I don't think a write-off of capital would be appropriate here.

However, I am minded to say that ELL should pay Mr W an amount for distress and inconvenience. I'll explain why.

I note that Mr W is concerned by ELL's actions after he notified it, through Citizens Advice, of his financial difficulties. This relates to both the initial stance it took regarding repayment of the loan amount and also the extent of its contact seeking repayment of the debt. I've thought about what he has said, in conjunction with ELL's contact records. And, overall, I don't agree that ELL's contact with Mr W after he began experiencing difficulties, was excessive or unfair. I note that much of the contact was between ELL and Citizens Advice.

I do though think that ELL could've come to the conclusion sooner than it did, that the lending had been unaffordable. And I think this caused Mr W some unnecessary distress and inconvenience.

Mr W has also said that when he applied for the loan, ELL's representative told him to omit certain information in terms of bank statements (parts showing significant gambling expenditure), in order for the loan to be agreed by ELL's underwriters. ELL has said it cannot comment on what was discussed at the time. Mr W has provided us with a copy of his bank statements for both of the current accounts he held at the time, including his Santander account.

These show significant gambling transactions on 21 and 25 August 2018 (£1,800 in total, versus £400 showing from earlier that month). The statement information that ELL provided as part of its file includes a Lloyds statements with a print date of 31 August 2018 (the same day as the loan agreement) and transactions going up to 29 August. Whereas, the Santander information is a "Mini-statement" only showing transactions up to and including 20 August 2018. Based on this, I find Mr W's recollection of event to be plausible - it does suggest that ELL's representative knew the lending was irresponsible.

Mr W's statements show that by 15 September, he had spent around £5,400 on gambling transactions – more than the capital he borrowed from ELL.

ELL wasn't responsible for Mr W's financial position when he asked to borrow money, or the problems he was having with gambling and other things. However, given his circumstances, I think ELL's decision to lend to him did result in him experiencing quite significant distress and inconvenience. Mr W has said he felt suicidal in the aftermath of taking the loan and I have no reason to disbelieve what he has said.

Taking everything into account, I think that in addition to the remedy ELL has already proposed, it should also pay Mr W £500 to reflect the distress and inconvenience caused by its actions.

Mr W said he was happy to accept my provisional findings.

However, Everyday loans disagreed. It said, in summary:

- It had lent based on the information Mr W provided at the time of his application, which included the Santander mini-statement. To suggest that its representative knew the lending was irresponsible with circumstantial evidence at best, is unquestionably wrong.
- In relation to my comment that it could've come to the conclusion sooner than it did that Mr W shouldn't have been provided with the loan, it asked whether this meant that all cases brought to this Service should have distress and inconvenience payments.

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.

Having done so, my provisional thoughts remain unchanged.

Everyday Loans has already said that it shouldn't have provided Mr W with the loan. So I've only needed to think about whether its offer to put things right goes far enough. And I still don't think it does.

Mr W has been clear and consistent in his recall about what happened when he applied for the loan, in terms of the Everyday Loans representative being aware of his gambling problem and being selective in what bank account information was used in the application process – so that significant gambling transactions weren't showing.

I still find that the bank statement information provided by Everyday Loans in response to our request for information, supports Mr W's version of events.

Everyday Loans initially said it couldn't comment on what Mr W had said, but in response to my provisional findings on the matter, it says that my finding was based on 'circumstantial evidence at best' and was 'unquestionably wrong'.

I disagree. Mr W's testimony on this point has been clear and consistent and the bank statement information provided by Everyday Loans fits with what Mr W has said. As such, I find what Mr W has said about this to be plausible and persuasive.

But in any case, I think that Everyday Loans' decision to lend to Mr W when it now accepts

that it shouldn't (because of, according to what Everyday Loans itself said 'gambling transactions' and Mr W's overall credit profile) caused him quite a significant amount of distress and inconvenience – given his particular circumstances.

He was clearly going through a very difficult period in his life. His bank statements show that the money lent was quickly spent on gambling transactions and he says that he was left feeling suicidal.

Everyday Loans wasn't responsible for the situation Mr W was in or his wider financial difficulties. But even with this being the case, I still find that its decision to lend Mr W the money did cause him quite a significant amount of distress and inconvenience. And I still think that a payment of £500 in addition to the standard remedy for unaffordable lending, would be appropriate.

Finally, regarding Everyday Loans' question about distress and inconvenience awards in all cases brought to this Service. The distress and inconvenience award in this case relates solely to the impact of Everyday Loans' unaffordable lending decision. And since this final decision relates specifically to this case only, there's no need for me to answer Everyday Loans' general question, within this decision.

Putting things right

In order to put things right, Everyday Lending Limited trading as Everyday Loans must:

1. Refund all the interest and charges Mr W has paid to date.
2. If the borrowing is still in place, reduce any outstanding capital balance by the amount calculated at step 1.
3. If, after Step 2, any outstanding capital balance remains, ensure that it isn't subject to any historic or future interest and/or charges. And agree an affordable repayment plan with Mr W. But, if Step 2 leads to a positive balance, the amount in question should be given back to Mr W and 8% simple interest should be added to the surplus†.
4. Remove any adverse information recorded on Mr W's credit file as a result of the interest and charges.
5. Pay Mr W £500 for the distress and inconvenience caused.

† HM Revenue & Customs requires the business to take off tax from this interest. The business must give the consumer a certificate showing how much tax it's taken off if they ask for one.

My final decision

My final decision is that I uphold Mr W's complaint about Everyday Lending Limited trading as Everyday Loans and I direct it to do what I've said above under 'putting things right'.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 7 April 2022.

Ben Brewer
Ombudsman