The complaint

Ms D, through her representative, complains that Everyday Lending Limited lent to her irresponsibly.

What happened

Ms D was approved for one loan from Everyday Lending on 24 April 2019 which was for £1,800 repayable over 24 months at just over £198 each month. It was settled in September 2020.

After the complaint had been referred to the Financial Ombudsman, one of our adjudicators thought that Everyday Lending had not lent responsibly and thought that it should put things right for Ms D.

Everyday Lending disagreed and said:

- Ms D's debt consolidation (paying off three other creditors) that would have left her with credit commitment repayments would have been £355.56 a month; and
- it had correctly calculated that after the debt consolidation, and after paying the Everyday Lending loan of about £198, Ms D would have been left with £151.65 each month; and
- it disagreed that Ms D was paying a significant proportion of her income each month to her creditors; and
- it used the repayment history of its own loan to substantiate its view that Ms D was able to repay the loan sustainably; and
- it disagreed with our adjudicator's point that she would have had limited disposable income with which to have met any living cost fluctuations.

The unresolved complaint was passed to me to decide.

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 the relevant rules, guidance, and good industry practice - on our website.

Having carefully thought about everything, I think that there are two questions that I need to answer to decide Ms D's complaint fairly and reasonably. These are:

1. Did Everyday Lending complete reasonable and proportionate checks to satisfy itself that Ms D would be able to repay the loans without experiencing significant adverse consequences?

- If so, did it make a fair lending decision?

- If not, would those checks have shown that Ms D would've been able to do so?

2. Did Everyday Lending act unfairly or unreasonably in some other way?

The rules and regulations in place required Everyday Lending to carry out a reasonable and proportionate assessment of Ms D's ability to make the repayments under this agreement. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower-focused" – so Everyday Lending had to think about whether repaying the loan would be sustainable. In practice this meant that the business had to ensure that making the repayments on the loan wouldn't cause Ms D undue difficulty or significant adverse consequences. That means she should have been able to meet repayments out of normal income without having to borrow to meet the repayments, without failing to make any other payment she had a contractual or statutory obligation to make and without the repayments having a significant adverse impact on her financial situation.

In other words, it wasn't enough for Everyday Lending to simply think about the likelihood of it getting its money back, it had to consider the impact of the loan repayments on Ms D**.** 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. Even for the same customer, a proportionate check could look different for different applications.

Considering this, I think that a reasonable and proportionate check ought generally to have been more thorough:

- the lower a consumer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);

- the higher the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);

- the greater the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

I've carefully considered all the arguments, evidence and information provided in this context and what this all means for Ms D's complaint.

Everyday Lending carried out some checks before it lent to Ms D. This included asking for details of her income and expenditure, carrying out a credit check, requesting a payslip and bank statements. It calculated Ms D's regular living expenses using statistical data and assessed her monthly credit commitments. I've seen a summary of the information gathered by Everyday Lending, including the credit report and bank statements provided to it at the time. From what I've seen, I think the checks that it carried out before lending to Ms D were reasonable and proportionate, in the circumstances.

Everyday Lending saw a copy of her new contract of employment and used her income as a

£1,748 and her rent as £450. It used a formula and Office of National Statistics information to calculate that the living expenses were about £593.

Everyday Lending had details of Ms D's credit commitments and at the time of lending it had created a 'debt table'. This is a duplicate of the 'debt table' as part of its assessment on affordability. I have not used any trading names. 'HCSTL' refers to high-cost short-term loans. The 'total' row I have added. I have excluded reference to HMRC overpayment and a child ISA.

Creditor type	**Balance**	**Repayment monthly**
Credit card	£199	£ 5.97
Pay day Loan*	£484	-
Credit card	£344	£10.32
Credit card	£700	£21
Mail Order	£268	£8.04
Mail Order	£256	£7.68
Credit card type account#	£667	£20 but on CPA#
Credit card	£327	£9.81
Credit card	£848	£25.44
HCSTL instalment loan*	£311.76	-
Credit card	£199	£5.97
Current account	£426	£0
Communications supplier	£11	£0.33
Four separate debt collection accounts	-	Total repayments all four £135
HP	£800	£107.30
Total after Everyday's paid off two creditors	**£5,840.76**	**£356.86 including the CPA account minimum sum of £20#**

*Paid off by Everyday Lending before releasing the loan capital to Ms D.

This type of account often works in such a way that the total sum outstanding is removed from the customer's current account under a continuous payment authority. My experience and understanding of this type of account from this lender is it's not often that £20 is taken each month. I'd expect a professional lender such as Everyday Lending to know this.

I have seen as part of the records submitted to us that Ms D received £1,043.32 'in her hand' after Everyday Lending had paid off the pay day loan of £444.92 plus the HCSTL instalment loan of £311.76. Everyday Lending had calculated that it would have reduced Ms D's monthly credit repayments by £646.77. That seems very likely.

However, the credit card calculations in the debt table were based on what appear to be minimum repayment figures and so there was no accounting for the fact that Ms D had to reduce the balance as well as just pay the credit card minimum payments. Added to which, my knowledge of the credit card type lender (outlined above) where it listed the minimum payment as £20 rarely works in that way. Usually the whole outstanding balance is taken whenever the customer's current account has enough money in it.

In addition to the points made above, reviewing all the details seen about Ms D, another concern seen on Ms D's bank statements and included in this debt table is that Ms D already had four debt collection accounts running which means that she was already showing signs of being in financial difficulties. And so, I think that the Everyday Lending additional debt burden for 24 months likely was not the best course of action for her. And the existing history towards other lenders – resulting in debt collector repayments being required – was an indication Ms D was not likely going to be able to pay sustainably for the whole two years.

Even on its own calculations £151 left over, considering all the above, was not really a comfortable amount to be left with for a whole month. And left little with which to try to repay her credit card main balances.

So – I uphold Ms D's complaint.

Putting things right

I direct that Everyday Lending does the following:

- adds up the total amount of money Ms D received because of having been given this loan. The repayments Ms D made should be deducted from this amount.
  If this results in Ms D having paid more than she received, 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 you should attempt to arrange an affordable and suitable payment plan with Ms D.
- remove any negative information recorded on Ms D's credit file relating to his loan.

**HM Revenue & Customs requires Everyday Lending to take off tax from this interest. It must give Ms D 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 Ms D's complaint and I direct that Everyday Lending Limited does as I have outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms D to accept or reject my decision before 25 April 2022.

Rachael Williams
Ombudsman