

The complaint

Miss G says Everyday Lending Limited (Everyday) lent to her irresponsibly. She also complains that Everyday has, in summary:

- Breached General Data Protection Regulations (GDPR).
- Not provided information in a timely manner about her loan. Some of the information Everyday has provided has been conflicting and incorrect. It wasn't clear to her when her loan would end.
- She was not treated positively and sympathetically when she had difficulties repaying the loan and she felt pressured by Everyday's collection procedures.
- Not adhered to its regulatory responsibilities.

Miss G says that the loan negatively affected her finances and the pressure she was placed under adversely affected her mental health.

What happened

This complaint is about one loan Miss G took in May 2007. Miss G borrowed £2,500. She was scheduled to make one repayment of £75 followed by 35 payments of £129.30. The total she would repay is £4,600.50.

Miss G fell into difficulty with the repayments almost straight away. I have read everything Miss G and Everyday have said about the problems Miss G had repaying the loan, but I won't reproduce them in full here.

But, briefly, Miss G and Everyday agreed a reduced amount to pay in October 2007, but I understand she also had problems making this repayment. The loan was defaulted in December 2010 and passed to a third-party collection agency. I understand Miss G was still making payments of a reduced amount when she made her complaint.

In its response to the complaint, as a gesture of goodwill, Everyday said it would close the loan. It's not entirely clear if it did this. But I don't need to know whether the loan is closed or not to fairly decide this complaint.

Our adjudicator upheld the complaint about irresponsible lending. He said that the checks Everyday did showed that Miss G was unlikely to be able to repay the loan sustainably and so it shouldn't have lent. This was because she already had a significant amount of other debt to repay. Our adjudicator didn't uphold the other parts of Miss G's complaint.

Everyday disagreed with the adjudicator's opinion. It said that even though she had other debt to repay she could still afford the loan. And it wasn't relevant that she was at, or near, the limits of her credit cards as these limits were not high.

Miss G agreed with what the adjudicator said.

As no agreement has been reached the complaint has been passed to me.

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 irresponsible lending - including all of the relevant rules, guidance and good industry practice - on our website.

Everyday needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out reasonable checks to make sure Miss G could repay the loans without undue difficulty.

These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that Everyday should fairly and reasonably have done more to establish that any lending was affordable for the consumer. These factors include:

- the *lower* a customer'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).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

I've decided to uphold Miss G's complaint in part, and I've explained why below.

Miss G didn't disagree with our adjudicators opinion not to uphold Miss G's complaints about data protection and customer service. These include the information Everyday had provided and how it had contacted Miss G and if this had caused her any distress. Because of this, I don't think there is any ongoing disagreement about these parts of Miss G's complaint, and I won't comment on them in detail. Save to say, I don't think these parts of Miss G's complaint should succeed for the same reasons the adjudicator said.

Our adjudicator that thought that Miss G's complaint about irresponsible lending should succeed as the information Everyday took at the time the loan was approved showed that she couldn't sustainably repay the lending. Having looked at the information provided I agree with this.

Miss G's income was recorded as being around £980 a month. Everyday didn't ask Miss G about her expenditure, it used statistical averages to show the loan was affordable. That said she was recorded as still living with her parents so her expenditure may have been modest.

It's worth noting that her normal expenditure was shown as being around £650 a few months later when Everyday looked again at Miss G's finances. So, it may have been that Everyday

didn't get the full picture about Miss G's situation at the time it advanced the loan. But I've not made a finding about whether the checks it did were reasonable as I don't need to.

I've outlined the repayments Miss G was due to make above. I think it's reasonable to say the repayments were significant given the size of them and the term of the loan. What is most relevant from the information shown at the point of sale is the other debt that Miss G had.

She already had one other high cost loan which had a monthly repayment of £176. She had other credit cards, which had lower balances, that took her monthly repayments to around £330 per month. Adding in the Everyday loan repayment took her total outlay to expensive forms of credit, assuming she only paid the minimum to her credit cards, to around £460 a month. Everyday was aware of this other debt from the information it had gathered about Miss G.

This is a very high amount which only left her with very modest amount for any other expenditure she may have had. And given the longer-term nature of the loans, and that she was only making the minimum repayments to her credit cards, this situation would persist for some time.

Given all of this I don't think it's reasonable to say that Miss G was likely to be able to sustainably repay this lending. And this was borne out in practice when it seems she was still making repayments to loan some 14 years later.

So, I think that Everyday shouldn't have given this loan to Miss G and I think she's lost out as a result of this. I'm upholding Miss G's complaint.

Putting things right

Everyday shouldn't have given Miss G this loan.

If Everyday has sold any outstanding debts Everyday should buy these back if it is able to do so and then take the following steps. If Everyday is not able to buy the debts back then Everyday should liaise with the new debt owner to achieve the results outlined below.

A) Everyday should add together the total of the repayments made by Miss G towards interest, fees and charges on the loan if it doesn't have an outstanding balance, not including anything it has already refunded.

B) Everyday should calculate 8% simple interest* on the individual payments made by Miss G which were considered as part of "A", calculated from the date Miss G originally made the payments, to the date the complaint is settled.

C) If the loan still has an outstanding balance Everyday should remove all interest, fees and charges from the balance, and treat any repayments made by Miss G as though they had been repayments of the principal on the outstanding loans. If this results in Miss G having made overpayments then Everyday should refund these overpayments with 8% simple interest* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled. Everyday should then refund the amounts calculated in "A" and "B" and move to step "E".

D) If there is still an outstanding balance then the amounts calculated in "A" and "B" should be used to repay any balance remaining on the outstanding loan. If this results in a surplus then the surplus should be paid to Miss G. Everyday shouldn't pursue outstanding balances made up of principal it has already written-off.

E) Everyday should remove any adverse information recorded on Miss G's credit file in relation to this loan.

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

My final decision

For the reasons I've explained, I partly uphold Miss G's complaint.

Everyday Lending Limited should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 7 March 2022.

Andy Burlinson
Ombudsman