DRN-3245500

The complaint

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

What happened

Ms D took out loans with Everyday Loans as follows:

Loan	Date taken	Loan amount	Term	Monthly repayment	Total amount repayable
1	October 2017	£1,800	24 months	£145.39	£3,489.36
2	April 2018	£5,000	36 months	£302.46	£10,888.56

When Ms D complained to Everyday Loans it didn't uphold her complaint so she brought her complaint to us. One of our adjudicators looked at the complaint and he thought that Everyday Loans hadn't done anything wrong when it provided loan 1 but didn't think it should have provided loan 2.

Our adjudicator set out directions indicating what Everyday Loans should do to put things right.

Everyday Loans agreed with what our adjudicator had recommended in respect of loan 1 but disagreed that it had done anything wrong when it provided loan 2. So, as the complaint hasn't been resolved, 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 adjudicator for broadly the same reasons.

As far as I can see, Ms D hasn't objected to what our adjudicator said with respect to not upholding her complaint about loan 1. So I don't think I need to say more about loan 1 except that I've reviewed this loan and independently reached the same conclusion as our adjudicator. I haven't seen enough to say that Everyday Loans shouldn't have provided this loan – so I'm not upholding this part of Ms D's complaint.

In my decision, I'm concentrating on loan 2.

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 Ms D about her income and expenses – including what she spent on her credit commitments. It also did its own credit check to understand Ms D's credit history. Everyday Loans recorded Ms D's average monthly take home pay was around £2,216 based on the information it saw on two payslips. Everyday Loans also took into account nationally available statistics when thinking about Ms D'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 Ms D should've been able to afford the monthly repayment on this loan as she should still have had around £77 spare cash left after paying for this loan as she was using it to clear other debt currently costing her around £660 each month.

I've taken carefully into account everything Everyday Loans has said in response to our adjudicator'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.

Our adjudicator thought Everyday Loans needed to do further checks before lending. I don't need to say more about the checks Everyday Loans did because I think the checks Everyday Loans did meant the lender already had enough information in front of it to realise that this loan looked unsustainable for Ms D.

I think Everyday Loans should have been concerned to see that when Ms D applied for this loan it worked out that her debt servicing costs to existing creditors were already around £1,500 monthly. Like our adjudicator, I think that this amount was such a significant proportion of her take home pay it was a clear indication that Ms D had become over-reliant on credit and, in reality, was already experiencing financial difficulty. And I think that's borne out by the fact that Everyday Loans' credit checks showed signs of financial stress. She had credit cards close to their limits. Within the 2 months period prior to applying for this loan, she had taken out two other new short-term loans and she also had a history of settled credit accounts, including payday loans. Her total indebtedness was more than £29,000 – which I think was a lot for someone with Ms D's income, even allowing for that fact that she had a further £ £257 or so each month from pensions as well as her earnings.

I think Everyday Loans should've realised that Ms D's credit file showed that managing her debt had got beyond her control and it seemed likely she was borrowing from one creditor to pay others. I think Everyday Loans should have 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 Ms D needed to spend almost half her total income just on meeting her credit commitments.

I've taken into account that Everyday Loans understood that the loan was intended for debt consolidation and Everyday Loans directly repaid some of Ms D's outstanding credit before paying the loan balance to her. But I think the scale of her overall debt compared to the much lesser value of the loan and the extent of her evident reliance on taking out expensive credit would suggest that she would 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 income towards debt repayments over the three year loan term.

So I don’t think Everyday Loans should’ve provided this loan.

As Ms D 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 adjudicator didn’t recommend that Everyday Loans should pay any additional redress. Ms D hasn’t commented on that and I haven’t seen anything which makes me think Everyday Loans acted unfairly towards Ms D in any other way. So I’m not awarding any additional redress.

And I think it is fair and reasonable for Ms D 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, Ms D 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 Ms D received as a result of having been given loan 2 . The repayments Ms D made towards loan 2 should be deducted from this amount.
- If this results in Ms D 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 Ms D 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 Ms D’s credit file is an accurate reflection of her financial history, it’s unfair that she should be disadvantaged by the decision to lend loan 2. So Everyday Loans should remove any negative information recorded on Ms D’s credit file regarding loan 2 .

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

My final decision

I uphold Ms D’s complaint about loan 2 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 Ms D to accept or reject my decision before 22 March 2022.

Susan Webb
Ombudsman