DRN-3271212

The complaint

Mr and Ms F complained that Everyday Lending Limited trading as Everyday Loans lent to them irresponsibly and provided an unaffordable loan.

What happened

Mr and Ms F took out a loan with Everyday Loans as follows:

Date taken	Amount	Term	Monthly repayment	Total amount repayable	Date repaid
September 2019	£2,000	24 months	£164.41	£3,945.84	February 2021

When Mr and Ms F complained to Everyday Loans it didn't uphold their complaint so they brought their complaint to us. One of our adjudicators looked at the complaint and didn't think Everyday Loans should have provided the loan. Our adjudicator set out directions indicating what Everyday Loans should do to put things right.

Everyday Loans disagreed. It said that the loan repayment represented just 4% of Mr and Ms F's joint income, which wasn't a significant amount. Also, its affordability assessment showed they had over £700 left each month after repayment of this loan.

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 think our adjudicator reached a fair and reasonable outcome. I'll explain why I say this.

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 Mr and Ms F about their income and expenses – including what they spent on their credit commitments. It also did its own credit check to understand their credit history and find out about their existing credit commitments and it reviewed bank statements provided by Mr and Ms F.

Everyday Loans recorded Mr and Ms F's joint monthly take home pay was around £3,902. Everyday Loans allowed for Mr and Ms F's monthly rent and also took into account nationally available statistics when thinking about Mr and Ms F's likely spending. In addition, it allowed for a 'buffer' to account for any change in circumstances or one-off additional expenses.

Based on this, Everyday Loans said Mr and Ms F should've been able to afford the monthly repayment on this loan as they should still have had around £789 spare cash left after paying for this loan.

Like our adjudicator, I think Everyday Loans' checks were broadly proportionate. But, despite its affordability calculation appearing to show that Mr and Ms F had enough disposable income each month to cover the loan repayments, I think Everyday Loans should've realised this was contradicted by what it saw in the other information it had gathered.

Everyday Loans could see from its credit checks that despite extensive reliance on credit, including unsecured loans from other providers of high cost credit and credit cards, there was evidence of daily overdraft fees being incurred. Everyday Loans worked out that Mr and Ms F's creditor repayments cost them around £1,390 each month.

Whilst having other outstanding lending wouldn't be unusual for a borrower applying for this type of expensive borrowing, and it wouldn't necessarily be a bar to further lending, I don't think Everyday Loans thought carefully enough about what the information it had gathered showed about Mr and Ms F's overall financial situation and the likelihood of them being able to pay its loan in a sustainable manner.

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, particularly as it knew that Mr and Ms F intended to use the loan for home improvements – so it would be adding to their overall indebtedness.

I think all the indications were that Mr and Ms F weren't managing their money well and they were already struggling financially.

Their debt to income ratio suggested they were already over-reliant on credit.

And to my mind, it should've been apparent that Mr and Ms F didn't have the amount of disposable income that Everyday Loans calculated - or indeed any spare cash, given that Mr and Ms F were struggling to avoid slipping into overdraft despite their accounts being boosted by additional lending and some of their monthly day to day spending being put on credit cards and mail order accounts.

All the signs were that their finances were, in reality, under significant stress and their debt had become unmanageable. I don't think Everyday Loans was reasonably able to be satisfied in these circumstances that Mr and Ms F would be able to make its loan repayments in a sustainable way.

I've taken carefully into account everything Everyday Loans has said in response to our adjudicator's assessment about the way it assessed affordability. But, bearing in mind the repayment of this loan on top of the debt Everyday Loans saw Mr and Ms F were already responsible for paying, I think it's fair to say that Mr and Ms F needed to pay a significant portion of their income towards credit – by my reckoning, well over a third. And in my opinion, as a responsible lender, seeing the level of income Mr and Ms F would be committed to paying just to cover their debt, Everyday Loans should've realised that Mr and Ms F would likely struggle to repay this loan sustainably – especially bearing in mind the 24 month loan term.

So thinking about all the information Everyday Loans had gathered, I can't reasonably say that it made a fair lending decision based on the information in front of it. I don't think Everyday Loans was able to safely conclude that its loan would be sustainably affordable for Mr and Ms F. So it shouldn't have provided it and Everyday Loans needs to put things right.

Putting things right

I think it is fair and reasonable for Mr and Ms F to repay the capital amount that they borrowed because they had the benefit of that lending - but they shouldn't repay any more than this.

Everyday Loans should do the following:

- add up the total amount of money Mr and Ms F received as a result of having been given the loan. The repayments Mr and Ms F made should be deducted from this amount.
- If this results in Mr and Ms F having paid more than they 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).
- Whilst it's fair that Mr and Ms F's credit file is an accurate reflection of their financial history, it's unfair that they should be disadvantaged by the decision to lend a loan that was unfairly provided. So Everyday Loans should remove any negative information recorded on Mr and Ms F's credit file regarding the loan.

*HM Revenue & Customs requires Everyday Loans to deduct tax from this interest. Everyday Loans should give Mr and Ms F a certificate showing how much tax has been deducted if they ask for one.

My final decision

I uphold Mr and Ms F'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 Mr F and Ms F to accept or reject my decision before 8 April 2022.

Susan Webb
Ombudsman