

The complaint

Mr W, through his representative, complains that Everyday Lending Limited, trading as Everyday Loans, lent to him irresponsibly.

What happened

Mr W has described the situation as: *'...I felt like I was going from loan to loan, without the true knowledge of what damage these high cost loans we're [sic] doing to me, my bank account and credit rating. It was almost like all my payslip went on loans and so the cycle went on.'*

Everyday Lending approved Mr W for one loan of £1,000 on 21 December 2017. It was to be repaid over 12 months at £159.83 each month commencing 1 February 2018. Everyday Lending has told us the information it gathered from Mr W was that he had been in his job for four months, he earned about £1,619 each month, lived with his parents, and paid them a nominal sum of £100. It had a list of loans Mr W already had, and had carried out a search of Mr W's credit history. It has sent to us a summary of the 'income and expenditure' (I&E) assessment it carried out which I come back to in the main part of this decision.

One of our adjudicators looked at the complaint and although he felt that Everyday Lending had carried out proportionate checks, the information it had led him to think he had several outstanding payday loans and although Mr W was planning or did use the Everyday Lending loan to consolidate a few of his existing loans this wouldn't have improved his financial situation. These were signs that Mr W was having trouble managing his finances. Our adjudicator also thought that the monthly repayment for the loan along with his other credit commitments represented a significant proportion of his income.

Everyday Lending responded to say it considered Mr W's loan was affordable and for the following reasons:

- the proceeds of the loan were to clear two payday loans and bring them into one payment, whilst his overall remaining creditors had been included in Everyday Lending's affordability calculator to ensure there was sufficient remaining income of £182.53.
- Mr W wanted the loan to get out of his payday cycle
- this was a relatively short loan of 12 months with a payment of £159.83 per month
- his bank statements were in order
- he had no dependents and lived with his parents paying £100 towards rent each month, therefore his overheads were low.

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 overarching questions that I need to answer to decide Mr W's complaint fairly and reasonably. These two questions are:

1. Did Everyday Lending complete reasonable and proportionate checks to satisfy itself that Mr W 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 Mr W 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 Mr W'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 Mr W 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 his 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 Mr W. 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 Mr W's complaint.

This is a duplicate of the 'debt table' Everyday Lending created for Mr W as part of its assessment on affordability. I have not used any trading names. And Everyday Lending has told us that the two marked '*Excluded*' in this table are the two I understand Mr W was going to be paying down with its loan. 'HCSTL' refers to high-cost short-term loans. The 'total' row I have added.

Creditor type	Balance	Repayment monthly	Excluded
Payday loan	£69	£74	Yes
Loan	£310	£9.30	No
Guarantor loan	£1,009	£206	No
Communication	£78	£0	No
Communication	£78	£0	No
Credit card	£199	£5.97	No
Current account	£0	£0	No
Payday loan	£394.08	£190	Yes
High cost lender	£2,086.04	£189.64	No
HCSTL (instalment)	£1,004.48	£199.52	No
Total	£5,227.60	£874.43	

I have reviewed the same set of bank statements Everyday Lending obtained from Mr W at the time it was assessing his affordability. From those Everyday Lending would have known that the HCSTL instalment lender listed in its own debt table was just one of five loans Mr W had with that lender. His repayments to that one lender on 1 December 2017 had been £747.12, and that same lender had credited him again with £860 on the same day (a fresh loan) which demonstrated that Mr W was borrowing to repay other lending which is a clear sign of unsustainability.

And it shows that the Everyday Lending debt table was incorrect as it had the repayments for that lender as over £199 a month, but in fact Mr W had more than one loan with that other lender and so his commitment to it was substantially higher.

Everyday Lending's main argument is that Mr W should have used the loan to pay off his credit commitments, as he seems to have told Everyday Lending he would do, bringing the ratio of income against commitments down to an affordable level. The two excluded credit commitments monthly repayments = £264. And one of the 'excluded' ones, meaning the ones that Mr W was going to use the Everyday Lending loan to pay off, had a very low balance of £69 and looked as if it was due to be repaid the following month. And the other balance of £394.08 looked like it would have been paid off in two months.

So, Mr W's financial situation was to improve his monthly repayment commitments for two months and in the meantime commit him to a further 10 months at just under £160 each month to repay the Everyday Lending loan. So, using Everyday Lending's own evidence submitted to me, I do not consider that to be a persuasive argument to defend its lending decision as a responsible one, or that it would have been a financial improvement for Mr W.

I've not seen any evidence from Everyday Lending's records supplied to us that the loan was used for paying off specific loans, or that it checked before lending that Mr W was going to do this. It could have stipulated that to borrow the money Everyday Lending paid the other loan companies directly before providing any money to Mr W. It didn't do that and I think as a

result the loan was unaffordable to Mr W. I don't think it made a fair lending decision in respect of this loan.

Putting things right - what Everyday Lending needs to do

As I have concluded Everyday Lending shouldn't have provided this loan, it should:

- refund all interest, fees and charges applied to the loan;
- pay interest* of 8% simple a year on any refunded interest, fees and charges from the date they were paid (if they were) to the date of settlement; and
- remove any negative information about Loan 2 from Mr W's credit file.

*HM Revenue & Customs requires Everyday Lending to take off tax from this interest. Everyday Lending must give Mr W a certificate showing how much tax it's taken off if he asks for one.

My final decision

My final decision is that I uphold Mr W's complaint and I direct that Everyday Lending Limited trading as Everyday Loans does as I have outlined above.

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

Rachael Williams
Ombudsman