DRN-3349315

## The complaint

Ms S complained that Everyday Lending Limited trading as Everyday Loans lent to her irresponsibly and provided a loan that was unaffordable.

## What happened

Ms S took out loans with Everyday Loans as follows:

| Loan | Start date | Loan amount | Total repayment amount | Term | Monthly payments |
|---|---|---|---|---|---|
| 1 | 18/12/2017 | £10,000 | £22,915.20 | 60 months | £381.92 |
| 2 | 19/10/2019 | £10,000 | £21,504.60 | 60 months | £358.41 |

Ms S took out loan 1 for the purpose of debt consolidation – in other words, to repay other debt, which Everyday Loans settled for her before paying the balance to Ms S. She used loan 2 to repay the outstanding balance on loan 1 and provide her with an additional £897 spending money.

When Ms S complained to Everyday Loans it agreed to uphold her complaint about loan 2 and offered to take steps to put things right in respect of that loan in the way we would expect a lender to do in these circumstances. But it said loan 1 had been fairly lent and didn't agree to uphold this part of Ms S's complaint.

Ms S didn't feel that Everyday Loans had done enough to resolve all her concerns so she brought her complaint to this Service.

One of our adjudicators looked at the complaint and thought that Everyday Loans shouldn't have provided loan 1 either. Our adjudicator recommended that the complaint should be upheld and set out directions indicating what Everyday Loans should do to put things right.

Everyday Loans disagreed with our adjudicator's view. 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.

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 S about her income and expenses – including what she spent on her credit commitments. It also did its own credit check to understand Ms S's credit history. Everyday Loans verified that Ms S's minimum monthly income was around £2,226. It also took into account nationally available statistics when thinking about Ms S's likely spending and based on this, Everyday Loans said Ms S should've been able to afford the monthly repayment on this loan. It worked out that after using this loan for the planned debt consolidation it had discussed with her, Ms S should still have approximately £63 spare cash each month.

Like our adjudicator I think those checks were broadly proportionate. But despite recording information that appeared to show that Ms S had enough spare cash each month to cover the loan monthly repayments, I think Everyday Loans should've realised that it couldn't rely on this information. That's because what Ms S had declared was significantly at odds with what Everyday Loans saw in the information it had gathered during the loan application process.

I say this because Everyday Loans could see from its credit checks that servicing her existing credit commitments took up an unsustainably large portion of Ms S's take home pay. This suggested she was already over-reliant on expensive credit and struggling to manage her money problems. I think that concern was borne out by other information Everyday Loans could see on the bank statements it looked at during the loan application process. These showed that Ms S was often overdrawn on her current bank account and incurring daily overdraft fees – despite the evidence Everyday Loans saw of her reliance on other credit and the payments into her account by a third party.

I think our adjudicator was right to say that all the indications were that Ms S wasn't managing her money well and she was already struggling financially. To my mind, it should've been apparent that Ms S probably didn't have the amount of disposable income that Everyday Loans calculated and the signs were that her finances were, in reality, under significant stress and her debt was already unmanageable. I don't think Everyday Loans was reasonably able to be satisfied in these circumstances that Ms S would be able to make its loan repayments in a sustainable way.

I've taken into account that Everyday Loans understood that around £7,000 of the loan was intended for debt consolidation with the balance of around £3,292 being paid to Ms S.. But I think the scale of Ms S's overall debt compared to the smaller value of the loan, would suggest that she would remain in serious financial trouble regardless. I don't think Everyday Loans was able to safely say this loan would improve her overall position sufficiently to achieve a significant and sustainable improvement in her financial situation overall. So it shouldn't have been provided.

I also think it was unreasonable to expect her to be able to commit to paying such a significant level of her income towards servicing her credit commitments, even after the planned debt consolidation. To my mind, Everyday Loans should've realised it was unlikely that she would be able to maintain the loan repayments at this level and so not provided this loan.

In coming to my decision I've taken carefully into account everything Everyday Loans has said, including its response to our adjudicator's view – but this doesn't change the outcome. I think Ms S would still need to pay a disproportionate amount of income towards debt servicing costs and Everyday Loans should've recognised this wasn't a sustainable position for her to be in.

Looked at overall, I can't reasonably say that Everyday Loans 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 Ms S. And so it shouldn't have provided it and Everyday Loans needs to put things right.

**Putting things right**

As Everyday Loans has already said it will put things right in respect of loan 2, I don't need to say more about this – except that Everyday Loans should take action to do what it has said it would if it hasn't already.

In respect of loan 1, I think it is fair and reasonable for Ms S to repay the capital amount that she borrowed because she had the benefit of that lending - but she shouldn't repay more than this.

Everyday Loans should do the following:

- add up the total amount of money Ms S received as a result of having been given loan 1. The repayments Ms S made should be deducted from this amount.
- If this results in Ms S 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 S 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 S's credit file is an accurate reflection of her financial history, it's unfair that she should be disadvantaged by the decision to lend this loan. So Everyday Loans should remove any negative information recorded on Ms S's credit file regarding loan 1.

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

## My final decision

I uphold Ms S's complaint about loan 1 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 S to accept or reject my decision before 21 April 2022.

Susan Webb
**Ombudsman**