The complaint

Miss H complains Everyday Lending Limited irresponsibly lent to her when she couldn't afford the loan(s).

What happened

In February 2015, Miss H took out a loan with Everyday for £5,195.99 payable over 36 months with a monthly repayment of £276.43. Miss H said the loan was to consolidate her debts. In September 2016, Miss H took out a second loan with Everyday for £8,000 over a period of 36 months repayable at £439.96. Miss H said this was again for consolidation of her debts which included the first Everyday loan.

In April 2018, Miss H took out a third loan with Everyday this time for £9,000 over a period of 42 months, repayable at £383.98 per month. She said the loan was to purchase a car. Miss H complained to Everyday as she said they hadn't done enough to check whether she could afford each of the loans.

Everyday said they'd carried out proportionate and reasonable checks to determine Miss H's financial position at the time of each loan. They said their affordability assessment showed Miss H had sufficient disposable income for each loan application. And that they deemed the loans to be affordable.

Miss H wasn't happy with Everyday's response and referred her complaint to us.

Everyday offered to settle the complaint as they accepted the first loan was unaffordable for Miss H. Miss H didn't accept the offer. And our investigator didn't consider that it was fair and reasonable. She said Everyday shouldn't have lent to Miss H for all three loans.

Everyday didn't completely agree, they accepted Loan One and Loan Two shouldn't have been lent. But didn't agree that the third loan wasn't affordable for Miss H. They asked for an ombudsman to consider.

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.

Its been accepted that Loan One and Loan Two shouldn't have been lent to Miss H. So as these loans aren't in dispute my decision will consider whether Everyday acted fairly and reasonably in lending Loan Three to Miss H. Having done so I'm upholding this complaint. I'll explain why.

I've considered the relevant rules, guidance and good industry practice when someone complains about irresponsible and/or unaffordable lending. There are two overarching questions I need to consider in order to decide what's fair and reasonable in all of the circumstances of the complaint. These are:

1. Did Everyday complete reasonable and proportionate checks to satisfy itself that Miss H would be able to repay the credit in a sustainable way?

    a. if so, did Everyday make a fair lending decision?
    b. if not, would reasonable and proportionate checks have shown that Miss H could sustainably repay the borrowing?

2. Did Everyday act unfairly or unreasonably in some other way?

Regulations in place at the time Everyday lent to Miss H required them to carry out a reasonable assessment of whether she could afford to repay the loan in a sustainable manner. This is sometimes referred to as an “affordability assessment” or “affordability check”.

The affordability checks should be “borrower-focused”, meaning Everyday need to think about whether repaying the loan sustainably would cause difficulties or adverse consequences for Miss H. In other words, it wasn’t enough for Everyday to think only about the likelihood that they would get their money back without considering the impact of repayment on Miss H herself.

There’s no set list for what reasonable and proportionate checks are. But I’d expect lenders to consider the specific circumstances of the loan application. What constitutes a proportionate affordability check will generally depend on several factors such as the specific circumstances of the borrower, their financial history, current situation and whether there are any indications of vulnerability or financial difficulty.

But there are factors which could influence how detailed a proportionate check should be for a given loan application. For example:

- the 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 amount from a particular level of income); and
- the longer the term of the loan (reflecting the fact that the total cost of the credit is likely to be greater and the consumer is required to make payments for an extended period).

So, I’ve considered whether Everyday in lending to Miss H had been thorough in the checks they made. And whether they’ve taken all these factors into account in deciding to lend to her.

Miss H’s application for Loan Three was made in April 2018, this showed her as being single with no dependents, living with her parents and not paying any rent. I can see from the two bank statements Everyday considered prior to agreeing to lend the third loan to Miss H, that her income was £2,269.66 and £2,730.96 respectively for February and March 2018. Everyday in their affordability assessment used the lower salary income of £2,269.66. From Miss H’s credit file, they’d calculated she’d commitments totalling £1133.72. This included a credit card, mail order account, regular payments of £1,000 to her father for a holiday, and £20 to her mother for a dental plan. For day to day living costs Everyday said they used the Office for National Statistics (ONS) calculation of 35% of Miss H’s net income, calculating this to be £570. After taking the new loan repayment into account - £383.98, Everyday’s assessment showed Miss H should have had a disposable income of £181.95. So Everyday considered the loan affordable.

But I don't think the above assessment is accurate if Everyday applied their calculations as they've said. If I use the same salary £2269.66, I calculate 35% (ONS) of this to be £794.38. I also make Miss H's commitments to be £1177.72, not £1133.72. And after the repayment for the loan, £383.38, I don't think Miss H would have been left with any disposable income. In fact, she'd have been short around £86 each month.

Everyday has said the difference in their commitments figure is the £44 that Miss H was committed to pay to her communications supplier. As this would have considered part of Miss H's day to day living costs it would be included in the ONS calculation. But if I accept this reasoning, Miss H still wouldn't have had any disposable income. I think she'd have been short around £42 per month.

I can see that Miss H's salary varied across the two months. And I think there could be seen other factors on her bank statements that I think showed Miss H wasn't managing her finances well. I can see from Miss H's bank statements that in February 2018 she'd made some gambling transactions - £20, and by March 2018 these had increased to £140 for the month. I can also see that Miss H was using her overdraft facility and incurring daily overdraft fees each month. There were also several *"bill payments*" to individuals showing on both statements. In February 2018, this type of payment amounted to over £250, and in March 2018, over £500.

I can see notes made against some of the transactions that show these were considered by Everyday. A payment from February 2018's statement for £240 has notes that say this was to repay money after Miss H lost her debit card. A payment to the same individual on the March 2018 statement has notes that say it's Miss H lending money to a friend for a purchase. But the reference for the payment says "*Thank You*".

So, I don't think Everyday asked for, or considered, further information to properly scrutinise and address the warning signs I've highlighted. I think Everyday should have looked into Miss H's application and financial situation further.

Everyday did have sight of two month's bank statements. Given the variance in Miss H's salary a third bank statement might have shown a more accurate reflection of Miss H's monthly income. Miss H has given further bank statements to us. I can see that for the January 2018 bank statement her salary was £1800.12. This shows over the three-month period prior to the loan, Miss H's monthly salary varied by nearly £1,000.

I've calculated her average salary over the three months to be £2.266.91. So, the salary used by Everyday was reasonable as it was close to Miss H's average salary over the three months. The January 2018 bank statement shows a couple of gambling transactions, Miss H using her overdraft. But there aren't any of the additional "*bill payment*" transactions as seen in the other two bank statements. But based on the affordability assessment with the ONS percentage Everyday use to calculate whether a loan is affordable, I don't think Miss H had any disposable income to reasonably sustain the repayments of the loan.

So, I think Everyday based their lending decision on an affordability assessment that I think was flawed in its calculations. And I think there were some warning signs that Everyday should have looked into about Miss H's application and financial situation further. So, I think Everyday acted irresponsibly in lending Loan Three to her.

Putting things right

Putting things right when it comes to complaints about irresponsible lending isn't straightforward as Miss H has had the loan(s) in question and she's used the funds. in these circumstances, I can't undo what's already been done. Everyday has already agreed that Loan One and Loan Two shouldn't have been lent. And I don't think they acted responsibly in agreeing to lend Miss H Loan Three either. So, I uphold this complaint and ask Everyday Lending Limited to:

- remove any interest and charges applied to Miss H's account for Loan One, Loan Two and Loan Three from when they were opened;
- treat any payments that Miss H has made as a reduction of the principle amounts, if this results in Miss H having paid more than what she was initially lent, then any extra should be treated as an overpayment and refunded to Miss H plus †8% simple interest on this amount from date of payment to date of settlement;
- if an outstanding balance remains on Miss H's account after all adjustments have been made, then Everyday Lending Limited needs to come to a suitable repayment plan with Miss H to pay off the remaining amount; and
- remove any adverse information on Miss H's credit file in relation to all three loans.

† HM Revenue & Customs requires Everyday Lending Limited to take off tax from this interest. Everyday Lending Limited trading must give Miss H a certificate showing how much tax they've taken off if she asks for one.

My final decision

I uphold this complaint. And ask Everyday Lending Limited to take the actions as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 20 June 2022.

Anne Scarr
Ombudsman