DRN-3400325

The complaint

Mr C complained that Everyday Lending Limited trading as Everyday Loans lent to him irresponsibly and provided a loan that was unaffordable.

What happened

Mr C took out a loan with Everyday Loans as follows:

Date taken	Total loan amount	Term	Monthly repayment	Loan status
March 2014	£2,468	26 months	£170.37	outstanding

The loan comprised an advance of £2,200 and £268 to cover the cost of taking out personal accident cover to protect the loan monthly repayments.

One of our investigators looked at the complaint and didn't think Everyday Loans should have provided the loan. She mainly said that the lender's checks showed that Mr C had taken out multiple payday loans in the three months before he applied for this loan suggesting that he was trapped in a spiral of short-term borrowing. She didn't think that using the loan partly for debt consolidation – in other words, to repay other debt – had been helpful to Mr C and so this wasn't a reason not to uphold the complaint.

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

Mr C didn't have any objections to what our investigator had said but Everyday Loans disagreed with our investigator's view. It mainly said that it's affordability checks showed that Mr C would have been better off per month by £186.86 which was a significant amount that would've made a difference to him financially.

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. I've looked at the complaint afresh and having thought about everything, I agree with our investigator for broadly the same reasons and I'm upholding this complaint. Here's 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 C about his income and housing costs. It also did its own credit check to understand Mr C's credit history and see what he was paying for his existing credit commitments. It collected some payslips from him and saw bank statements covering the last three months or so.

Everyday Loans recorded Mr C's average monthly income was around £1,588 based on an average pay figure it worked out from looking at payslip details plus additional benefits that it saw on his bank statements were paid into his account.

It allowed for Mr C needing to pay £500 per month rent. Everyday Loans also relied on nationally available statistics when thinking about Mr C's likely expenditure. And, after doing a credit check to see what his existing credit commitments were, based on all this information, Everyday Loans said Mr C should still have had around £64 spare cash left each month *after* paying for this loan and using it to pay some other debt that had been costing him approximately £186 each month. So Everyday Loans felt he should've been able to afford the monthly repayment on this loan.

Our investigator didn't think that Everyday Loans' checks had been proportionate. I don't need to comment further on whether its checks went far enough because I think Everyday Loans had enough information in front of it to have realised that its loan was unlikely to be sustainably affordable for Mr C. I say this because despite its affordability calculation appearing to show that Mr C had enough disposable income each month to cover the loan monthly repayments, I think Everyday Loans should've realised this was contradicted by what it saw in the other information it had gathered.

Everyday Loans saw that Mr C was already paying a bank loan costing him £159 per month. It looks like he'd taken out that loan in December 2012 in order to repay a bank loan taken out just 8 months earlier and top up his borrowing. So Everyday Loans was aware that this was the second time in 15 months or so that Mr C had sought to improve his position by consolidating debt. As debt consolidation can be an expensive way to try and manage debt I think that potentially suggested that Mr C hadn't managed to restructure his finances successfully. I think that was borne out by the fact that it was also apparent that he'd had some problems maintaining the loan repayments as he was paying extra to this account to clear arrears.

He was also repaying a credit card that was approaching its £2,000 credit limit. I think Everyday Loans would've been aware that in order to make any meaningful inroads into repaying his credit card debt he'd need to make more than the minimum monthly repayments that Everyday Loans seems to have allowed for. I think it's reasonable to say that an amount of 5% of the outstanding balance (around £100) would be needed to do this.

As well as this, although this wasn't apparent on the credit report Everyday Loans obtained, it saw on Mr C's bank statements, provided during the application process and covering the period 17 December 2013 – 10 March 2014, that he'd taken out multiple payday and unsecured loans from a variety of other providers of high cost credit – including a £500 loan just a week or so before he applied for this loan. Despite this Everyday Loans could also see that Mr C was frequently overdrawn and incurring returned direct debit fees.

I don't think Everyday Loans properly took into account what all the information it had gathered showed about Mr C's overall financial situation and the likelihood of him being able to pay its loan in a sustainable manner.

In my opinion, as a responsible lender, Everyday Loans should've realised that Mr C was already over-reliant on taking out expensive loans and his pattern of lending suggested he was borrowing in order to fill the gap in his finances left by repaying previous loans – and that this loan was part of that same pattern. I think our investigator was right to say that it should've been apparent that Mr C didn't have the amount of disposable income that Everyday Loans calculated. And bearing in mind the repayment of this loan on top of the debt Everyday Loans saw Mr C was already responsible for paying, I think it's fair to say that Mr C needed to pay a significant proportion of his income towards credit – likely around at least a third by my reckoning. Overall, I think Everyday Loans saw enough to have realised it would likely be a struggle for Mr C to repay this loan with this level of income committed just to repaying debt – especially bearing in mind the 26 month loan term.

I've taken into account that Everyday Loans understood that the loan was partly intended for debt consolidation and it appears that Everyday Loans directly repaid £1,036.17 to one of Mr C's outstanding creditors before paying the loan balance to him. But I think the scale of his overall debt compared to the much lesser value of the loan and the extent of his evident reliance on taking out expensive credit would suggest that he would remain in serious financial trouble regardless. And, as mentioned above, it was in any event unrealistic to expect Mr C to be able to commit to paying such a significant level of income towards debt repayments over the two year plus 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 it had gathered. I don't think Everyday Loans was able to safely conclude that its loan would be sustainably affordable for Mr C. So it shouldn't have provided it and Everyday Loans needs to put things right.

Our investigator didn't recommend that Everyday Loans should pay any additional redress. Mr C hasn't commented on that and I haven't seen anything which makes me think Everyday Loans acted unfairly towards Mr C in any other way. So I'm not awarding any additional redress.

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

So I've set out below what Everyday Loans should do to put things right.

Putting things right

If Everyday Loans has 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 Mr C received as a result of having been given the loan. The repayments Mr C should be deducted from this amount.
- If this results in Mr C having paid more than he 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 Mr C bearing in mind the need to treat him positively and sympathetically if he still needs further time to pay what he owes.
- Whilst it's fair that Mr C's credit file is an accurate reflection of his financial history, it's unfair that he should be disadvantaged by the decision to lend this loan. So Everyday Loans should remove any negative information recorded on Mr C's credit file regarding the loan.

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

My final decision

I uphold Mr C'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 C to accept or reject my decision before 27 April 2022.

Susan Webb
Ombudsman