DRN-3407695

The complaint

Mr D, through his representative, complains that Everyday Lending Limited trading as Everyday Loans provided him with loans that he was unable to afford to repay.

What happened

Mr D took out the following loans from Everyday Loans:

	Date taken out	Amount	Term - months	Monthly repayment	Date repaid
Loan one	10/4/18	£4,000	30	£219	8/11/18
Loan two	8/11/18	£4,700	30	£245	27/2/19

Loan one was taken out to repay a number of loans Mr D had, and to consolidate the monthly repayments into one more affordable figure. Loan two was taken out in part to pay off the remaining balance of loan one.

Mr D said that at the time of applying for the first loan he already had loans with multiple payday lenders and the payment for the Everyday loan made his financial position significantly worse. For both loans Everyday Loans carried out the following checks:

- Obtaining and reviewing up to two months bank statements from the customer's primary bank account.
- Obtaining and reviewing one month's payslip, and Mr D's P60, to establish average income over the year.
- Conducting a Credit Search.
- Carrying out a job check.

As part of its underwriting, it used ONS (Office for National Statistics) data and figures to calculate the living expense element of affordability.

In respect of loan one, it said Mr D had a disposable income after accounting for the loan repayment of around £892 per month. For loan two it said he had a disposable income of around £372 per month. In both cases it said that the checks it had carried out established that the loans were affordable.

In respect of loan one, this loan was taken so that Mr D could pay off some existing loans, which he did. For loan two Mr D paid off loan one and received a cash payment of £1,082.

Mr D's representative supplied an up to date credit report and bank statements for two accounts, covering the period around both loans.

On review our adjudicator said that for both loans Everyday carried out proportionate checks. And that those checks didn't show that any further investigation of Mr D's finances should be carried out. She pointed out that for loan one he was able to pay off a number of loans which brought his monthly liability down considerably. With regard to loan two she thought this was affordable bearing in mind Mr D's history and the up to date checks carried out by Everyday.

I issued a provisional decision. I agreed with the adjudicator's view concerning loan one. However, in respect of loan two I said that Everyday hadn't made a fair lending decision, and should repay all interest and charges on the loan.

Neither party has made any comments on my provisional findings.

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.

My provisional findings were as follows:

"*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.*

Considering the relevant rules, guidance, and good industry practice, I think the questions I need to consider in deciding what's fair and reasonable in the circumstances of this complaint are:

- *Did Everyday complete reasonable and proportionate checks to satisfy itself that Mr D would be able to repay the loans in a sustainable way?*
- *If not, would those checks have shown that Mr D would have been able to do so?*

The rules and regulations in place required Everyday to carry out a reasonable and proportionate assessment of Mr D's ability to make the repayments under the agreements. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower-focused" – so Everyday had to think about whether repaying the loans would be sustainable. In practice this meant that the business had to ensure that making the repayments on the loans wouldn't cause Mr D undue difficulty or significant adverse consequences. That means he 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 he 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 to simply think about the likelihood of it getting its money back - it had to consider the impact of the loan repayments on Mr D. Checks also had to be "proportionate" to the specific circumstances of the loan applications.
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. I think that such a 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 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).*

Here Mr D was taking out high interest loans, in both cases for 30 months. The instalments require a substantial commitment from him. So I think that Everyday needed to carry out thorough assessments for both loans.

loan one

When Mr D approached Everyday, he was in financial difficulty. He had a number of high cost and payday loans. His bank accounts both joint and sole, were overdrawn. He also had a high amount of credit commitments payable out of his income (about 51%). He was clearly not managing; and he had explained to Everyday that one pay day loan company was talking to him about his entering an Individual Voluntary Arrangement (IVA). However the loan monies enabled him to pay off five loans, and saved him having to enter into an IVA, by paying off the said payday loan. The sum of the instalments on those loans added up to £750. Taking into account the instalments for this new loan, this brought down his credit commitments by £531 per month.

I see from his bank statements that Mr M paid off those loans. So though he still had high credit commitments over his income (about 33%) they were considerably lower than before. I think Everyday carried out proportionate checks and made a fair lending decision.

loan two

I think for this loan, the situation was different. Apart from paying off loan one, thereby extending the repayment period by another 30 months and giving Mr D a cash payment, I can't see what the purpose of this loan was. When Mr D approached Everyday for this loan, his credit commitments after loan one had gone up by around £285 per month, meaning that they were now about 40% of his income. The cash payment, as far as I can see, wasn't used to pay off any loans. I note also that his disposable income had gone down by over £500 since the first loan.

Again I think that Everyday carried out proportionate checks. But bearing in mind Mr D's history with it, I think that those checks should have alerted it to the fact that Mr D hadn't been able to avoid increasing his credit commitments by taking out new loans. I understand that the instalments increased by only about £25, but I don't think this loan helped Mr D with his finances. So in respect of this loan, I don't think Everyday made a fair lending decision."

As nether party has made any comments on my provisional findings, those findings are now final and form part of this final decision.

Putting things right

In respect of loan two as to the appropriate remedy, Mr D has had the capital sum so should repay that. But I think Everyday should refund all interest and charges for this loan.

Everyday should:

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

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

My final decision

In respect of loan one I don't uphold the complaint.

In respect of loan two I uphold the complaint and require Everyday Lending Limited trading as Everyday Loans to provide the remedy set out under "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 28 April 2022.

Ray Lawley
Ombudsman