DRN-3448862

The complaint

Mr W complains that Everyday Lending Limited trading as Everyday Loans lent him money on high interest loans he was unable to afford to repay.

What happened

Mr W was provided with the following loans by Everyday:

	Date	Amount	Term	Monthly payment*	Date repaid
Loan one	29/4/2016	£3,800	24 months	£306	2/11/2017**
Loan two	2/11/2017	£5,500	42 months	£330	Not known

*round figures **consolidated with loan 2.

Mr W says he took the loans out when he was in a lot of debt with payday and other high interest loans. He feels that Everyday irresponsibly lent him the monies. Other companies he took loans out with have admitted they provided loans irresponsibly.

Everyday said that for each loan its checks included:

- Obtaining and reviewing up to two months' bank statements from Mr W's primary bank account.
- Obtaining and reviewing one month's payslip.
- Conducting a Credit Search.
- Carrying out a job check.

Everyday has sent us the documents in respect of both sales, including its affordability calculations. It said that each loan was for debt consolidation, and that Mr W had an adequate disposable income left after paying off his loans.

Our adjudicator said that in respect of each loan they were for debt consolidation, and could have been used to reduce the amount of Mr W's credit commitments by a substantial amount. He said the loans were affordable to Mr W in both cases.

Mr W disputed that the loans were for debt consolidation, saying that the first loan was for a car, the second for boat repairs. The only consolidation was paying off the first loan with the second loan. He feels that Everyday changed the purpose of the loans to make it look good on its records. In any event, he points out that Everyday would have seen from its searches for the second loan that he hadn't paid off any loans after the first loan.

I issued a provisional decision. In it I said that whilst I thought Everyday had made a fair lending decision in respect of loan one, it hadn't done so in respect of loan two.

Mr W accepted my provisional findings.

Everyday has received my provisional decision, but has made no further comment.

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 W would be able to repay the loans in a sustainable way?*

- *If not, would those checks have shown that Mr W 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 W'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 Everyday had to ensure that making the repayments on the loans wouldn't cause Mr W 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 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. 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).*

Mr W was borrowing large amounts, over extended periods. So I think Everyday should have *carried out a thorough assessment of his financial circumstances in respect of both loans.*

loan one

This loan didn't appear to be, according to Everyday's notes, for a car. As far as I can see that was the intended purpose of the second loan. But the loan notes do say on the date the loan was issued "Recommendation £s for boat and pif pdl.." I'm assuming this means payment in full of payday loan (or loans). The affordability statement on Everyday's file is marked "boat". Whilst Mr W says it wasn't for debt consolidation, it's clear from the note that there were discussions with Mr W about his reasons for having had so many payday loans. And the notes clearly say some (unspecified) loans were to be paid off. So I think the loan was intended to be used partly for debt consolidation and partly for boat repairs.

Mr W's finances were complicated – he had a number of payday loans and credit cards, some of which he had been paying substantial amounts towards. He had two credit cards with total balances outstanding of about £120. So it's difficult to estimate how much he would have saved by paying off the smaller balances. I think it reasonable to expect that he would have used at least part of the loan monies to pay off some loans. Everyday estimated that Mr W had about £406 in monthly credit commitments, after paying off the three loans identified as payday loans. And that after taking into account £937 for monthly expenditure, with the new loan payment Mr W still had a disposable income of about £628 (out of a monthly income of about £2,677).

I understand that the new loan would have added to Mr W's credit commitments, but in light of the income he would have had left even if he had chosen not to pay off the loans I think the new loan would still have been affordable. I think Everyday made a fair lending decision.

loan two

I think Mr W's circumstances at the time of applying for loan two were different. Firstly Everyday's initial notes say Mr W wanted the money for a car. Apart from the paying up of the old loan, I can't see there was any mention of consolidation to Mr W (unlike for loan one). It would have been clear from the credit report that Mr W hadn't paid off any old loans, and had taken on some new ones. But, even taking into account Everyday's assertion that the loan was for debt consolidation, his credit commitments would still have gone up to around £1,062 a month, increasing to around 40% of his income (from about 26% before).

Everyday didn't mention any further in its notes or discussions with Mr W about his wanting the monies for a car, and didn't appear to be concerned that he hadn't used loan one to pay off any loans.

Whilst the disposable income figure was still estimated to be around £690 that was on the basis of loans being consolidated. We don't just take into account the pounds and pence figures. Other indications in respect of this loan that Mr W was struggling included the fact that he had five credit cards, three of these were over their limits and one just six pounds short of its limit (this one being £3,594 out of a £3,600 limit). Further Mr W had been spending large amounts on gaming for his son (£900 in the three months prior to this loan). I see those figures were noted by Everyday, but not queried further.

Bearing in mind that Mr W hadn't paid off his credit/loans in respect of loan one, I think it would have been essential for Everyday to ensure this happened for this loan. It could have stipulated that in order to borrow the money, the loans had to be paid off e.g. by paying the loan companies out of the loan 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 think Everyday carried out proportionate checks in respect of this loan, but I think those checks should have alerted it to make further enquiries or to ensure the loan was fully used for consolidation purposes."

As neither party has made any further comment on those findings, they are now final and form part of this final decision.

Putting things right

Mr W has had the capital payment in respect of loan two, so it's fair that he should repay this. So far as the loan is concerned I think Everyday should refund all interest and charges as follows:

- Remove all interest, fees and charges applied to loan two.

- Treat any payments made by Mr W as payments towards the capital amount of £5,500. If Mr W has paid more than the capital, refund any overpayments to him with 8%* simple interest from the date they were paid to the date of settlement.

- But if there's still an outstanding balance, Everyday should come to a reasonable repayment plan with Mr W.

- Remove any adverse information about loan two from Mr W's credit file.

*HM Revenue & Customs requires Everyday to deduct tax from this interest. It should give Mr W a certificate showing how much tax it's deducted if she asks for one.

My final decision

I uphold the complaint in part 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 W to accept or reject my decision before 24 May 2022.

Ray Lawley
Ombudsman