

The complaint

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

What happened

Miss W took out a loan with Everyday Loans as follows:

Date taken	Loan amount	Term	Monthly repayment	Total amount repayable	Loan status
6 July 2018	£2,000	24 months	£187.86	£4,508.64	outstanding

When Miss W complained to Everyday Loans it didn't uphold her complaint. So Miss W brought her complaint to this Service.

One of our adjudicators looked at the complaint and thought that Everyday Loans shouldn't have provided the loan. 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. It mainly said that our adjudicator had double counted one of Miss W's financial commitments and disputed the proportion of income that she would need to spend in order to service her credit commitments overall. It also said that its affordability assessment showed that Miss W would have ample disposable income and so it didn't agree that the loan wasn't affordable.

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 Miss W about her income and expenses – including what she spent on her housing costs and her credit commitments. It also did its own credit check to understand Miss W's credit history. Everyday Loans verified that Miss W's minimum monthly income was around £1,209. It also took into account nationally available statistics when thinking about Miss W's likely spending and based on this, Everyday Loans said Miss W 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, Miss W should still have almost £350 spare cash each month.

Like our adjudicator I think those checks were broadly proportionate. But despite recording information that appeared to show that Miss W 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 Miss W 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 Miss W's take home pay – almost a third. I think 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 – its credit checks revealed that she had defaulted on one of her accounts just a couple of months earlier. And bank statements it looked at during the loan application process showed that Miss W was struggling to maintain her account in credit and incurring unarranged overdraft fees – despite the evidence Everyday Loans saw of her reliance on other credit, including a further loan from another high cost provider shortly before she applied for this loan, as well as payments into her account by third parties.

I think our adjudicator was right to say that all the indications were that Miss W wasn't managing her money well and she was already struggling financially. I believe it ought to have been apparent to Everyday Loans that Miss W probably didn't have the amount of disposable income that it thought 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 Miss W would be able to make its loan repayments in a sustainable way.

I've taken into account that Everyday Loans understood that the loan was intended for debt consolidation. But it paid the loan directly to Miss W and didn't have control over how she used the money – so there was always a risk that this loan would add to her overall indebtedness. And I think the scale of Miss W's overall debt compared to the smaller value of the loan, bearing in mind her overdraft would effectively swallow up the entire loan amount, makes me think 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 position sufficiently to achieve a significant and sustainable improvement in her financial situation overall.

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 Miss W would likely 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.

To sum up, 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 Miss W. And so it shouldn't have provided it and Everyday Loans needs to put things right.

Putting things right

I think it is fair and reasonable for Miss W to repay the capital amount that she borrowed because she had the benefit of the loan - but she shouldn't repay more than this.

Everyday Loans should do the following:

- add up the total amount of money Miss W received as a result of having been given the loan. The repayments Miss W made should be deducted from this amount.
- If this results in Miss W 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 Miss W 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 Miss W'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 Miss W's credit file regarding the loan.

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

My final decision

I uphold Miss W'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 Miss W to accept or reject my decision before 21 June 2022.

Susan Webb
Ombudsman