DRN-3490553

The complaint

Miss W complains that Everyday Lending Limited trading as Everyday Loans provided her with high cost loans that she was unable to afford to repay.

What happened

Miss W was provided with the following loans by Everyday:

	Start date	Loan amount	Term - months	Monthly repayment	Total repayable
Loan 1	12/06/2019	£1,500	18 months	£166.39	£2,995.02
Loan 2	03/08/2021	£1,500	24 months	£156.88	£3,765.12

She says she took out the first loan when she was vulnerable. She had credit card and other debts and feels that Everyday didn't take account of this when lending to her. She felt pressurised into taking out the second loan and couldn't afford the repayments.

Everyday reviewed the loans and said that in respect of loan 2, its affordability assessment failed to take account of childcare costs, and as result the loan was unaffordable. It agreed to repay the interest and charges on the loan. In respect of loan 1 it said that its assessment found that she had a sufficient monthly disposable income left to pay the loan instalments. It said that its checks included:

- Obtaining and reviewing one month's bank statements from a customer's primary bank account
- 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.

Our adjudicator noted that Miss W had two credit cards, one of which was at its limit, the other having exceeded its limit and defaulted in May 2019. She also observed that Miss W had only been in her then employment for two months. So she said that Everyday should have carried out further checks before deciding to lend. She thought that as a result Everyday should have realised that Miss W would have been unable to afford the loan instalments.

Everyday disagreed, it said that having been in a job for two months wasn't an indication of lack of stability. And that the amounts owing on credit cards were small amounts.

I issued a provisional decision. In it I said that I thought the loan was unaffordable, though for different reasons.

Miss W accepted my provisional findings. Everyday received the provisional decision but has made no further comments.

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.

The following were my provisional findings:

"*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 Miss W would be able to repay the loans in a sustainable way?*
- *If not, would those checks have shown that Miss 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 Miss 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 loan wouldn't cause Miss W undue difficulty or significant adverse consequences. That means she 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 she had a contractual or statutory obligation to make and without the repayments having a significant adverse impact on her 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 Miss 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)*

loan 1

I have noted Everyday's comments about our adjudicator's view. I would agree that being in new employment isn't a bar to the affordability of a loan unless there was some other information to suggest that the employment was unstable. Which I don't think there was in this case. However I do think the fact of Miss W's credit card having gone into default the month before the loan and her other credit card being at the limit were significant. It begs the question that, if she couldn't make repayments on "small" balances (£277 and £300), why she might be able to afford the new loan repayments.

Taking Everyday's affordability assessment into account, Miss W's credit commitments were said to be £890 a month. The loan didn't provide for any consolidation of other loans or credit. With an assessed income from all sources of £1,943, and including the new loan instalment this would have meant Miss W spending 53% of her income on her credit commitments. Her monthly disposable income was assessed to be £237, but I think with that level of credit the loan was unaffordable.

I've noted that the credit commitments include nursery fees of £422. But even if they were not included as credit commitments, this would bring down the liability to 25% of her income. Looking at the bank statement supplied with the application, although Miss W managed to keep her account out of overdraft for May-June 2019, she had payments in as well as her income from work, benefits, and maintenance, of £1,000. So taking that into account I would still regard the loan as unaffordable.

loan 2

Everyday has agreed this loan was unaffordable, and has agreed to pay back the interest and other charges so I won't go into this in any detail. I would observe however that its updated affordability assessment (including childcare costs) showed Miss W to have a negative disposable income of -£438 which does seem to indicate that the first loan was unaffordable."

As neither party has made any comments on my provisional findings, those findings are now final and form part of this final decision.

Putting things right

Miss W has had the capital sums for both loans and it's fair that she repays those. I acknowledge that for loan 2 Everyday has agreed to repay the interest and other charges, although I haven't been advised whether Miss W has agreed to this. So I will, in respect of both loans, require Everyday to do the following:

- Remove all interest, fees and charges applied to the loans.
- Treat any payments made by Miss W as payments towards the capital amounts totalling £3,000.
- If Miss W has paid more than the capital, refund any overpayments to her 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 Miss W.

- Remove any adverse information about the loans from Miss W’s credit file.

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

My final decision

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 Miss W to accept or reject my decision before 20 June 2022.

Ray Lawley
Ombudsman