The complaint

Miss C and Mr P complain through their representative that Everyday Lending Limited trading as Everyday Loans (Everyday) lent them money on high cost loans that they were unable to afford to repay.

What happened

Everyday provided Miss C and Mr P with the following loans:

	Date taken	Amount	Term	Date repaid
Loan 1	03/05/2013	£4,000*	34 months	07/12/2014
Loan 2	18/12/2014	£8,000*	48 months	23/09/2016
Loan 3	21/10/2016	£12,500	48 months	24/04/2018

*Miss C and Mr P also paid for an additional insurance premium in respect of these loans. I haven't included those figures as they don't form part of this decision.

Miss C and Mr P said they struggled to repay the loans and were left with very little spare income to afford the loan repayments. They ended up borrowing more to repay each loan which was rolled over into the next loan. Miss C and Mr P's representatives have provided copy bank statements for the relevant periods.

Everyday said that for each loan it carried out a full assessment, which included doing credit checks on both applicants, verifying their income, and reviewing two months bank statements for each of Miss C and Mr P's main accounts. It carried out an assessment of their outgoings using ONS (Office for National Statistics) data. It assessed that the loans were affordable.

Our adjudicator said the results of the checks showed that the payments in respect of all the loans represented a significant proportion of Miss C's and Mr P's income. So she thought it was unlikely Miss C and Mr P would've been able to sustainably meet their repayments for these loans. She proposed that Everyday refund the interest and charges on all three loans.

Everyday accepted our adjudicator's view concerning loan 3. However with regard to loan 1 it said that Miss C and Mr P had a disposable income left after paying the loan instalments, of over £316 and for loan 2, over £1,004. For that reason it believed they were able to afford the repayments for both loans without difficulty.

The matter has been referred to me for further consideration.

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 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 C and Mr P would be able to repay the loans in a sustainable way?

- If not, would those checks have shown that Miss C and Mr P 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 C and Mr P'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 loan would be sustainable. In practice this meant that the business had to ensure that making the repayments on the loans wouldn't cause Miss C and Mr P undue difficulty or significant adverse consequences. That means they 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 they had a contractual or statutory obligation to make and without the repayments having a significant adverse impact on their 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 C and Mr P**.** 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 a reasonable and proportionate 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 the amounts of the loans and the periods of repayment were substantial. So Everyday should have carried a thorough assessment of both Miss C's and Mr P's financial circumstances.

loan 1

This loan was for the purchase of a car. However Miss C and Mr P already had considerable credit commitments, and had a deferred loan and two credit cards both near their limits. They already had a substantial Hire Purchase loan. By my calculation, with this loan instalments, these commitments amounted to about 32% of their joint income. This was in my view quite high and a could only be justified if they had sufficient disposable income to easily afford the repayments of the new loan.

Whilst Everyday used ONS data to calculate Miss C and Mr P's outgoings, it did obtain bank statements from Miss C and Mr P. And I think it's fair to look at the payments made from Miss C and Mr P's accounts to look at a realistic figure for outgoings. By my calculations these set out that their income, before applying the new loan payment, was just enough to cover their outgoings. And, as the new loan didn't include consolidation of any old debts, I don't think, bearing in mind the significant payment needed for this loan, that it was affordable.

So, whilst I think Everyday carried out proportionate affordability checks, those checks should have led Everyday to the conclusion that the loan was unaffordable. So, I don't think Everyday made a fair lending decision.

loan 2

This loan was in part for consolidation of existing loans, and part for spending for Christmas. Miss C and Mr P still had the credit commitments from before. It's not possible to tell from the credit report whether they had missed any payments on their loans and credit cards. The credit card debts were however higher than before (although near to, but not over the limit). Miss C and Mr P were also using a third credit card which was near its limit. And they had taken out a couple of home credit loans. Also at the time of the application for loan 1, Mr P's bank account was £25 overdrawn. The amount required to pay off his overdraft at the time of this loan was over £1,350.

Everyday's disposable income assessment said that by consolidating the loans Miss C and Mr P would save about £408 a month. However referring to the audit and the loan disposal figures, I calculate this to be more like £132, this may be because of the old loan being paid off. Still though, with the new loan Miss C and Mr P's credit commitments had gone up to around 34% of their assessed income a month.

To calculate their disposable income Everyday again used ONS data. It calculated that Miss C and Mr P would have a disposable income of around £1,008 a month. If I take account of the difference in the amounts they would have by loan consolidation and the spending pattern seen in their bank statements, this figure would be more like £325. This nevertheless might mean they could afford the new loan instalments, but we don't just look at the pounds and pence affordability. There was a pattern here of Miss C and Mr P getting into deeper debt since the first loan. Yet after consolidating the loans they would still have received over £4,000 which could have been used to pay off other debts.

So I think that because of the information Everyday had from their first loan application and what that revealed with the new checks, Miss C and Mr P weren't in a position to afford this loan either. Again I think Everyday carried out proportionate affordability checks, but those checks should have led Everyday to the conclusion that the loan was unaffordable. So, I don't think Everyday made a fair lending decision.

loan 3

Everyday has accepted our adjudicator's view in respect of this loan, so I won't make any further comment. I will direct accordingly in my decision below.

Putting things right

Miss C and Mr P have had the capital sums for all three loans and it's fair that they repay those. So I propose, in respect of those loans, Everyday should do the following:

- Remove all interest, fees and charges applied to the loans.
- Treat any payments made by Miss C and Mr P as payments towards the capital amounts.
- If Miss C and Mr P have paid more than the capital, refund any overpayments to them with 8% simple interest* from the date they were paid to the date of settlement
- Remove any adverse information about the loans from Miss C and Mr P's credit file.

*HM Revenue & Customs requires Everyday to deduct tax from this interest. It should give Miss C and Mr P a certificate showing how much tax it's deducted if they ask for one.

My final decision

I uphold the complaints 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 C and Mr P to accept or reject my decision before 13 July 2022.

Ray Lawley
Ombudsman