The complaint

Mr S said Everyday Lending Limited (trading as Everyday Loans) lent to him irresponsibly.

What happened

Mr S took out a loan with Everyday Loans as follows:

Date taken	Amount	Term	Monthly repayment	Total amount repayable	Loan status
14/9/2021	£2,000	24 months	£154.58	£3,709.92	paid 15.12.21

Mr S mainly said that at the time of applying, he had recently taken out three other large short term, high interest loans and missed payments on loans he had at the time. He said he provided bank statements which showed poor management of his finances, he withdrew £1,000's monthly and he always had a very low balance. He also complained that Everyday Loans failed to ask him for a password he'd set up on the account to protect against fraud.

Everyday Loans didn't uphold Mr S's irresponsible lending complaint – it said it had completed reasonable and proportionate checks and that the loan was sustainable over the loan term as Mr S had disposable income.

But Everyday Loans admitted that on two occasions it failed to correctly request Mr S's password. It upheld this part of his complaint and apologised. Everyday Loans offered to pay Mr S £100 compensation for this.

Mr S didn't feel that Everyday Loans had done enough overall to settle his complaint so he came to us.

Our adjudicator investigated and upheld both parts of Mr S's complaint.

Everyday Loans disagreed. It mainly said (and I'm summarising here) that although our adjudicator had agreed it had carried out a proportionate check before agreeing to lend, she had looked at information it didn't have available at the time and drawn her conclusions based on that information. Everyday Loans asked for an ombudsman's review. The complaint came to me to decide. I issued a provisional decision.

What I said in my provisional decision

Here are some of the main things I said.

"As things stand, I don't think that Everyday Loans made a fair lending decision when it provided this loan. I'll explain why I say this.

Everyday Loans was required to lend responsibly. 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.

The rules don't say what a lender should look at before agreeing to lend. But reasonable and proportionate checks should be carried out. Checks had to be borrower-focused. So Everyday Loans had to think about whether repaying the credit sustainably would cause any difficulties or adverse consequences for Mr S. In other words, it wasn't enough for Everyday Loans to think only about the likelihood of it getting its money back - it had to consider the impact of the loan repayments on Mr S.

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 looked affordable, a lender still needed 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.

I've kept all of this in mind when thinking about whether Everyday Loans did what it needed to before agreeing to lend to Mr S .

Everyday Loans asked for some information from Mr S before it approved the loan including details of his income – which it said it took steps to verify - and his monthly spending. Everyday Loans recorded that Mr S's monthly income was around £1,930.

It reviewed his credit file to understand his credit history and existing commitments. It included an allowance for Mr S's housing costs. Everyday Loans also took into account statistical information and factored into its calculations an amount that reflected the typical monthly expenditure someone in Mr S's position might reasonably expect to pay according to national UK averages worked out by the Office for National Statistics. As well as this, Everyday Loans included an extra 'buffer' for any minor fluctuations in Mr S's income or expenses or in case he needed to meet an unplanned expense.

It also asked about the purpose of the loan and understood it would be used for debt consolidation – in other words, Mr S said he would use the loan to repay other debt. Based on the information it gathered, Everyday Loans concluded he could afford this loan and that Mr S would be better off if he took out the loan as it would boost his disposable income (which it worked out was currently just £78 or so each month) and leave Mr S with around £151 spare cash monthly.

So Everyday Loans concluded it was fair to lend to Mr S.

But, whilst I've thought carefully about what Everyday Loans has said, I don't think that Everyday Loans made a fair lending decision when it provided this loan.

I don't think Everyday Loans properly took into account what Mr S's credit history and the information it saw in the bank statements revealed about his overall financial situation.

It isn't unusual for applicants for this type of high cost loan to have a credit history showing other borrowing or an impaired credit record – and these things wouldn't necessarily be reasons to prompt a responsible lender to decline a loan application.

But I think Everyday Loans could've seen from the credit report it obtained that within the last 12 months Mr S had taken out three loans with other providers of expensive credit. It looked like a loan amount of £5,370 taken out in June 2021 had been used in part to repay other loans that were cleared the next day. I think this potentially suggested that previous attempts to consolidate borrowing hadn't been as successful as planned if Mr S now found himself needing to borrow again to repay outstanding debt. As well as this, I think Everyday Loans could see that Mr S's credit card had been close to its credit limit throughout the 12 months period it could see in the credit report it obtained. When the credit limit had increased from £200 to £700 Mr S had maxed out the card up to its new limit and he'd been stuck more or less at this level, making no real inroads into repaying the card balance for the last 7 months or so.

Our adjudicator thought that Mr S likely wouldn't have as much pay as Everyday Loans had thought, given that she had seen bank statements showing that in two months out of three he had been paid £1,778 – so she felt this figure more realistically gave a better indication of his typical salary. She couldn't see any other benefits were paid into his account. I think it's fair to say that Everyday Loans' assumption that Mr S was likely to be able to rely on earning around £1,930 didn't look realistic. It hasn't shown me how it arrived at this figure and I think it would've been fairer to rely on the information it saw showing he had actually received a lower amount and used this figure - £1,778 - when assessing affordability.

Everyday Loans worked out that it needed to allow for Mr S having to pay around £1,091 per month to reflect his overall contribution towards living expenses. His housing costs were shown as £272 per month and his credit expenses, as seen in the credit checks Everyday Loans obtained, were at least £488. I think Everyday Loans could also see information on his bank statements showing that Mr S was paying another high cost lender as well, not listed in its credit checks. All in all, this suggested that in reality Mr S actually had a monthly shortfall as his likely expenditure exceeded his typical income. And that was reflected in the bank statements Everyday Loans saw during the loan application process showing that in August 2021 he paid £363 more out of the account than he paid in.

This leads me to conclude that, despite what Everyday Loans' income and expenditure assessment suggested, the overall picture showed that Mr S was struggling to manage money problems effectively and it included clear warning signs that he was already experiencing serious financial difficulty and reliant on expensive borrowing to manage his debt. So it should've realised that further lending was unlikely to be sustainably affordable for him.

I think this is borne out also by the fact that Everyday Loans should have realised that with a typical monthly income of £1,778 and credit costs of at least £488, Mr S was already paying around 27% of his net income just on servicing his existing debt. To me, that was a clear warning sign that he was over-reliant on credit. With the monthly repayments for his new loan on top of this, Mr S would now face having to pay well over a third of his typical net pay towards debt repayment.

Given the loan term, and the evidence that he was already struggling financially, I think this was such a significant proportion of Mr S's monthly disposable income Everyday Loans couldn't reasonably say it was likely that he would be able to repay the loan in a sustainable way. All the signs were that Mr S was over-stretched financially and this loan would mean paying an even bigger proportion of his income towards servicing debt.

I've taken into account that Everyday Loans understood that the loan would be used for debt consolidation. But this doesn't affect my overall view.

Everyday Loans didn't have control over how Mr S used the loan as it paid the loan balance to him. And even if Mr S had used this loan to repay some existing debt, I don't think Everyday Loans had sufficient reason to think this would've improved his overall position sufficiently to achieve a significant and sustainable improvement in his financial situation. Notably, his consolidation plans didn't include his two largest outstanding loans.

I think the scale of his overall debt compared to the much lesser value of the loan and the extent of his evident reliance on taking out expensive credit would suggest that he would remain in serious financial trouble regardless.

As well as this, I think it looks like one of the loans Everyday Loans included in its affordability assessment wouldn't have been an ongoing cost for Mr S in any event as it was noted down as 'paid off' with a nil settlement figure – even though it was included in the consolidation. If that's right, this means Mr S would've saved on the £98 monthly cost of that loan without borrowing this loan. The other loan Everyday Loans expected Mr S to consolidate had £306 outstanding and cost just £15 per month. The two public utilities were noted as costing £32 and £83 per month.

So effectively, Everyday Loans had information showing that the £2,000 loan it was providing to Mr S, that could cost him an extra £1,709 in interest over the loan term and which would cost him around £154 per month, would save him loan repayments of just £15 per month and the balance would help with ongoing bills of £115 per month. In other words, he would end up needing to repay more expensive credit overall plus he'd be paying an extra £24 or so per month. I think Everyday Loans should've realised that even if used for its stated purpose, providing this loan to Mr S looked likely to be detrimental to him.

So, for all these reasons, I plan to say that I uphold Mr S's complaint that he should not have been given the loan and that Everyday Loans needs to take the following steps to put things right.

I can appreciate why Everyday Loans felt our adjudicator's approach didn't reflect its understanding of what proportionate checks showed. But I think our adjudicator reached a fair and reasonable outcome and I hope that setting things out the way I have done is helpful. I invite Everyday Loans to reconsider its approach to Mr S's lending complaint.

Our adjudicator didn't recommend that Everyday Loans should pay any additional redress. Mr S hasn't commented on that and I agree with our adjudicator that the offer it made in respect of his complaint about its admitted failure to make use of his password after he'd asked it to do this, was fair.

So I don't think I need to say more about this.

If Mr S wishes to take up Everyday Loans' offer then I suggest he makes contact direct with the lender, if he hasn't already done so."

What the parties said in response to my provisional decision

Mr S has confirmed he has nothing further to add.

Everyday Loans has asked me to reconsider the complaint and still feels that the loan was affordable and responsibly lent. In particular, it said that:

- when assessing affordability, it relied on Mr S earning the lowest figure seen on his bank statements (around £1,778 per month) and receiving a benefit payment of around £152 per month on top of this. It also made an allowance for him being responsible for dependants when thinking about his likely expenditure
- Everyday Loans allowed for all Mr S's credit commitments
- there is no ruling or guidelines on debt to income ratio. Everyday Loans affordability checks indicated there was disposable income and there was no evidence in the bank statements or credit file to suggest Mr S was in any financial difficulties
- a paid-off loan was included in error in the affordability assessment but the overall amount after debt consolidation was still correct
- part of the loan was consolidation - the rest was for a car
- although in August 2021 Mr S paid £363 more out of his bank account than he paid in, it looked like funds had been transferred to another account rather than spent on outgoings. Also, the previous month shows outgoings £172 less than deposits, indicating no financial stress on the bank statement.

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 approach to unaffordable/irresponsible lending complaints on our website and I've kept this in mind while deciding this complaint.

I'd like to thank both parties for all the information that has been provided about this matter and Everyday Loans for its detailed response to my provisional decision.

I've taken carefully into account everything that's been said in response to my provisional decision. I have highlighted above what seem to me to be the main points of concern raised and I'd like to assure Everyday Loans that I've thought carefully about everything again before coming to my final decision.

I'm grateful to Everyday Loans for clarifying the figures used in its affordability assessment, and I agree that it is fair to say it made allowance for all Mr S's credit commitments - but Everyday Loans hasn't provided me with any new information that changes what I think about this case.

I say this because Everyday Loans hasn't persuaded me that it properly took into account the bigger picture or thought carefully enough about the impact of its loan on Mr S and whether it was fair to lend.

I don't agree that it saw nothing to suggest financial difficulty. Mr S was already spending such a significant portion of his income on servicing his existing credit commitments that this should have raised serious concerns about his financial situation as this is a hallmark of someone already over-reliant on borrowing. And despite the reason he'd given to explain his borrowing record, the way Mr S was using credit, which Everyday Loans could've seen from his credit history, suggested he was, in reality, borrowing to repay other debt – a large loan he took out just three months earlier in June 2021 looks like it was used to clear another expensive loan. Borrowing to repay other debt is a clear sign that debt has become unsustainable.

Everyday Loans understood that most of the loan was going to be spent and just £306 or so would go towards debt consolidation. So it was aware that this loan would significantly add to Mr S's total indebtedness. I think the scale of his overall (and mounting) debt compared to the lesser value of the loan and the extent of his evident reliance on taking out expensive credit would suggest that Mr S would remain in a position of needing to continue borrowing in order to manage his debt. I don't think anything Everyday Loans saw was enough to tip the balance and make it think that this loan would be sustainably affordable. As I see things, it was unsurprising when Mr S contacted Everyday Loans, the next month after taking out the loan, to tell the lender that he had now approached a debt charity.

I think it should've been reasonably foreseeable that this loan would most likely be unsustainably affordable for Mr S over the loan term. That seems to be further borne out by the fact that Mr S told us he borrowed money from a family member in order to repay this loan early.

I appreciate that Everyday Loans takes a different view to me. But with all these things in mind, I still think it's fair on balance to uphold this complaint for the reasons I explained more fully in my provisional decision.

Putting things right

I think it is fair and reasonable for Mr S to repay the capital amount that he borrowed, because he had the benefit of that lending.

But he has paid extra for lending that should not have been provided to him. In line with this Service's approach, Mr S shouldn't repay more than the capital amount he borrowed.

Everyday Loans should do the following:

- add up the total amount of money Mr S received as a result of having been given the loan. The repayments Mr S made should be deducted from this amount.
- If this results in Mr S having paid more than he 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).
- Remove any negative information recorded on Mr S's credit file regarding the loan.

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

My final decision

I uphold this complaint and direct Everyday Lending Limited (trading as Everyday Loans) to take the steps I've set out above to put things right for Mr S.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 14 July 2022.

Susan Webb
Ombudsman