DRN-3556239

The complaint

Mr W complains through his representatives that Everyday Lending Limited trading as Everyday Loans (Everyday) lent him money on high cost loans which he was unable to afford to repay.

What happened

Everyday provided the following loans to Mr W:

	Date	Amount	Term	Instalments	When repaid
Loan 1	5/9/2012	£5,000	60 months	£242*	19/4/2013 (repaid by loan 2)
Loan 2	19/4/2013	£6,100*	60 months	£230*	9/4/2018

*rounded figures

Mr W complained that the loans were unaffordable to him and that he got deeper into debt. He has since entered into an IVA (Individual voluntary arrangement) to service his debts.

Everyday said it carried out the normal verification checks, which included carrying out a credit check, reviewing two months bank statements and verifying his income. It assessed his normal outgoings using ONS (Office for National Statistics) data. Its assessment confirmed that the loans were affordable to him.

Our adjudicator said the results of the checks showed that although the loans were for debt consolidation, it didn't put Mr W in a better position. He would have had to pay a significant proportion of his monthly income towards his combined monthly creditor repayments. This also only allows for minimum repayments to the revolving credit (credit cards, overdraft) at 5% per month. She said that for both loans, Everyday should refund all interest payments on both loans.

Everyday agreed the adjudicator's view concerning loan 2. However it maintained it had made the correct decision concerning loan 1, as it paid off two credit cards with this loan.

The matter has been passed 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.

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).

Considering the amount of the loans and the substantial commitment they represented for Mr W, I think Everyday should have carried out a thorough review of Mr W's income and financial commitments.

loan 1

I've carefully reviewed Everyday's affordability assessment, particularly having regard to the credit check report. As our adjudicator advised, for debts like credit cards or an overdraft, where no specific monthly payment is mandated by the lender, it's reasonable to look at a payment of 5% of the balance each month. Mr W had four credit cards whose balances totalled over £15,300. He also had an overdraft of just over £1,000, but no other loans.. Before taking out the loan, his credit commitments represented over 54% of his assessed income of £1,504. But, allowing for consolidation of two of the credit cards, the new loan instalment pushed this up to 63%, a clear indication, in my view, that the loan was unaffordable.

Looking at his disposable income, Mr W's outgoings were £526 (based on ONS data), and £200 housing costs. Looking at the amount he would have required to service both these and his new credit commitments, I calculate that he would have had a negative monthly disposable income of -£169. Even if I were to accept Everyday's calculations, which were based on 3% of the revolving credit balances, this figure would only have been +£112, with his new credit commitments amounting to 44% of his income. On either scenario, I think the loan was unaffordable for Mr W.

loan 2

As Everyday has accepted the adjudicator's view concerning this loan, I won't make any further comment.

Putting things right

Mr W has had the capital sum in respect of each of the loans and it's fair for these sums to be repaid. I should warn Mr W and his representatives that the administrator of his IVA has confirmed that, under the terms of the IVA, they do have an interest in the complaint. And it's likely that they will require that any redress be paid to that company rather than directly to Mr W.

In respect of both loans Everyday should:

- Remove all interest, fees and charges applied to the loans.
- Treat any payments made by Mr W as payments respectively towards the capital amounts.
- 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.
- Remove any adverse information, if appropriate, about the loans from Mr W's credit file.

*HM Revenue & Customs requires Everyday to take off tax from this interest. It must give Mr W a certificate showing how much tax it's taken off if he 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 Mr W to accept or reject my decision before 1 August 2022.

Ray Lawley
Ombudsman