

The complaint

Ms M complains that Everyday Lending Limited, trading as Everyday Loans, lent to her irresponsibly.

What happened

Using information from Everyday Lending's records, here is a brief table of the two loans taken. Ms M maintains that loan 2 was always meant to be a top-up of loan 1 and part of her complaint is that it was a fresh loan when she did not realise that.

Loan	Approved	Amount	Interest	Total to repay	Repayment amounts over X months	repaid
1	18 August 2020	£1,300	£1,999.52	£3,299.52	£137.48 x 24 months	March 2021 (consolidated into loan 2)
2	11 March 2021	£2,250 of which £1,457.09 used to repay loan 1 and £792.91 cash	£4,425.60	£6,675.60	£222.52 x 30 months	outstanding

Ms M commenced the complaint in the early part of 2022 and received an acknowledgement from Everyday Lending in March 2022.

Everyday Lending did ask for copies of Ms M's bank account statements around the period of lending. On 25 May 2022 Ms M declined to send them to it. She asked that it used the evidence the branch office had at the time Ms M applied for the loans.

Ms M received the final response letter in May 2022 in which Everyday Lending listed all of Ms M's concerns which I duplicate here:

'As I understand it, your concerns are as follows:

- 1. You have taken two loans with us*
- 2. When you received your annual statement in August 2022 the statement states that your loan was for £2250.00, yet your first loan was for £1300.00, and the second loan was for £792.91 which added up to £2092.91.*
- 3. You advise you were not informed of any fees so would like to know where the £157.09 has come from*
- 4. You are disputing that you still owe £4000.00*
- 5. You advise you were not informed of the APR or the amount of interest you would need to pay, had you known you would not have taken the loan. You believe the*

interest to be excessive

6. You advise you have not received copies of the signed credit agreement

7. You do not believe the loans were affordable

Having looked into your concerns regrettably I am unable to uphold your complaint. Please find below the details of my investigation.'

In the FRL Everyday Lending explained about the two loans taken, that part of loan 2 was used to repay loan 1 and the additional sum was released to Ms M as cash (around £793) and the term for the second loan was longer. Everyday Lending explained that Ms M had been made aware of these elements and had signed the appropriate documents at the time. So, it did not accept that Ms M was unaware of the two loans and the details including the interest rate, APR and amounts to repay.

Everyday Lending said that when Ms M returned for further credit she had repaid £824.88 on loan 1.

When assessing Ms M for the loans, Everyday Lending knew her net monthly income, that she had no dependents, that her rent was £500 a month and it reviewed up to two months' worth of bank statements and a payslip, and carried out a credit search. It checked her employment details. It used Office of National Statistics data (ONS) to assist in its calculation of her expenses. It explained in the FRL:

'Your monthly financial commitments together with your general living expenses as detailed above, was calculated £1482.14.'

So Everyday Lending had calculated that Ms M had just over £266 each month after she had made the payment on its own loan as well as all other expenditure.

For the second loan it carried out much the same checks and this time had used a year to date (YTD) figure to calculate Ms M's monthly salary. So that payslip YTD figure when averaged over the year came to £2,040.93 a month and its calculations came to £1,755.38 for her expenditure. So Everyday Lending considered that Ms M could afford the £223 (just under) each month.

So Everyday Lending did not uphold Ms M's complaint and she referred it to the Financial Ombudsman Service.

One of our adjudicators looked at the complaint and thought that Everyday Lending ought not to have lent loan 1 to Ms M but considered that it was satisfactory to have lent loan 2.

Ms M disagreed and gave many reasons as to why she did not agree with our adjudicator – all of which I have reviewed.

The unresolved complaint was passed to me to decide. It seemed clear that Ms M wanted a total review of the complaint and all the evidence. And so that was what I did. My provisional decision issued on 21 December 2022 is set out in full is set out here – in smaller type to differentiate it from this final decision.

My provisional decision dated 21 December 2022

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.

Taking into account the relevant rules, guidance and good industry practice, I think the overarching questions I need to consider in deciding what's fair and reasonable in the circumstances of this complaint are:

- Did Everyday Lending, each time it lent, complete reasonable and proportionate checks to satisfy itself that Ms M would be able to repay in a sustainable way?
- If not, would those checks have shown that Ms M would have been able to do so?
- Did Everyday Lending act unfairly or unreasonably in some other way?

The rules and regulations in place required Everyday Lending to carry out a reasonable and proportionate assessment of Ms M's ability to make the repayments under this agreement. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower-focused" – so Everyday Lending 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 loan wouldn't cause Ms M 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 Lending to simply think about the likelihood of it getting its money back, it had to consider the impact of the loan repayments on Ms M. 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.

Considering this, 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).

I've carefully considered all the arguments, evidence and information provided in this context and what this all means for Ms M's complaint.

Loan 1

I have seen the credit search that Everyday Lending carried out when Ms M applied to it for loan 1. I think that these results ought to have given Everyday Lending cause for concern.

And I say this because the headline credit information that search gave to Everyday Lending was that she had one live loan with a £436 outstanding balance and one revolving account (such as a credit card) with an outstanding balance of £194. It also outlined that Ms M had no insolvency issues registered, but Ms M had several defaults some of which were quite recent. And one was for a current account with her bank and may well explain why Ms M has a Basic Account. These sorts of accounts often were given to people who may have had a poor credit history.

So, I think that Everyday Lending ought to have done more. Having said that, it reviewed

Ms M's bank statements and interviewed her and asked her about the defaults and her repaying a debt collector. Ms M had an explanation as to why the earlier defaults had occurred. Ms M also had a very specific and plausible reason for needing the £1,300 which related to a pet.

However, I have seen the debt table that Everyday Lending had created when assessing her for the creditworthiness for the loan and it has listed that she had a basic bank account and that she was repaying money to five sets of debt collection accounts. So, although these were not a great deal of money each month, I think that the overall picture was one of a customer who had been in real trouble financially not that long before and now had a lot to pay off.

I consider that the loan ought not to have been lent. I have seen from the notes made on the bank account statements Everyday Lending reviewed that she had sold her car for £600 in July 2020 and had repaid a loan she'd taken from her daughter. So, Ms M appeared to be selling her car to bring in cash and had been borrowing from a family member. These would not lead a professional lender to consider that the customer was in a strong position financially and able to afford their repayments for 24 months.

I plan to uphold Ms M's complaint about loan 1.

Loan 2

It follows that I do not consider that loan 2 ought to have been lent to Ms M either. And one of the reasons I say this is that I agree with Ms M where she has questioned how and why Everyday Lending used an average of her YTD salary figures to come up with a monthly salary of around £2,040.93.

It reviewed her bank statements for the period leading up to Ms M's application for the second loan and it would have seen that her salary 8 months before was around £1,780 and here with the more recent bank statements that her salary was around £1,800. And there is an account note from March 2021 in which an Everyday Lending representative has noted that it had calculated her monthly salary from the average of her last two seen on the bank statements and that had come to around £1,798. And so, I think that somewhere along the line the calculations taken from the evidence provided as her monthly income was altered to a higher figure and I think that may have skewed the creditworthiness assessment.

In the bank statements Everyday Lending saw and had ringed that Ms M had had four direct debit reversals (so they had failed to go through) in December 2020, and more in January 2021.

The credit search that Everyday Lending had done for loan 2 still showed several defaults and Ms M was still having to repay those.

The repayments for this new loan were going to be for a longer time of 30 months and for a lot more each month – around £222 and overall, I do not consider this to have been sustainable for the additional period.

I plan to uphold Ms M's complaint about loan 2.

Other issues

Ms M's complaint emails to Everyday Lending include several statements and one is:

'I only found out about the total amount of interest on the loan when i got a statement nearly 18 months later.'

And in the complaint form when she referred it to us Ms M has stated that:

'At no point was I told the amount of interest that was on that loan'.

Ms M often has expressed upset on discovering the interest charged.

However – I have seen account notes from December 2017 in which Ms M declined a loan from this company because of the cost. So, I take it from that Ms M was very aware of the nature of the high cost credit this company offered and the high cost interest charged. In addition, Ms M has framed her complaint to include statements relating to the high interest charged to people with poor credit.

I consider that Ms M did know what the interest levels were – that they were high and (as Ms M has described) that not being able to obtain credit elsewhere she had resorted to this company.

As for the issue Ms M had in relation to not being given a top-up loan but instead discovering much later that she had been sold a new loan – then I make the following findings.

I'll never know what was said at the branch interviews as there are no detailed contemporaneous notes other than some brief account notes, some of which look to have been duplicated from the loan 1 interview.

But it does seem unusual that Ms M had asked for a top-up loan and received around £793 into her account from Everyday Lending, but in fact the loan was a consolidation of loan 1 and a lot of the interest on that loan flowed through to a new loan which ultimately going to cost her £6,675.60.

But equally, I find it unusual that Ms M, when thinking she was taking a relatively small top- up loan, signed direct debit mandates in March 2021 and agreement forms and a 'Your Loan Explained' document and loan checklist for a series of repayments which were much higher than her original loan.

This is demonstrated by the fact that loan 1 was almost £138 a month and loan 2 was almost £223 a month. Whereas Ms M has described asking for the top-up loan which she had perceived as the smaller loan and only realising what had happened 18 months later. But she had signed-up for 30 repayments at almost £223 a month. That does not seem logical to me.

On balance, I do not uphold this element of the complaint that somehow Ms M was '*conned*' to use her word. Everyday Lending is known to be a high cost lender and as Ms M had already explained to us in her complaint forms and explanations to us by email she knew she would find it difficult to find credit elsewhere and so she needed to approach a company such as this.

And this was the second loan and so Ms M had been a customer for some time and likely would have been familiar with its practices and likely seen at least one set of the agreements and the amounts charged.

So, I plan not to uphold this part of Ms M's complaint.

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 reply date for the provisional decision was 11 January 2023 and since then I have heard from Ms M who has accepted my provisional findings. And Everyday Lending has acknowledged receipt of the decision but has sent nothing further.

I think it is in the interests of both parties for this complaint to be resolved and so my final decision is issued today.

In view of the responses from the parties I have no reason to depart from my provisional findings, they are repeated here and are part of the final decision. So for the same reasons as before, I uphold Ms M's complaint in part.

Putting things right

To put things right I am planning to ask that Everyday Lending should:

- remove all interest, fees and charges applied to Loans 1 and 2,
- treat any payments made by Ms M in respect of the loans as payments towards the total capital amount given to her,
- If Ms M has paid more than the capital then any overpayments should be refunded 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 Lending should come to a reasonable repayment plan with Ms M.
- remove any adverse information about Loans 1 and 2 from her credit file.

*HM Revenue & Customs requires Everyday Lending to take off tax from this interest. Everyday Lending must give Ms M a certificate showing how much tax it's taken off if she asks for one.

My final decision

I uphold the complaint in part and I direct that Everyday Lending Limited, trading as Everyday Loans, does as I have outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 10 February 2023.

Rachael Williams
Ombudsman