DRN-3639160

The complaint

Miss M, through her representative, complains that Everyday Lending Limited, trading as Everyday Lending, lent to her when she could not afford it and without carrying out proper checks.

What happened

Everyday Lending approved Miss M for one loan in July 2018. It was for £5,000 and with the interest it meant that Miss M had to repay £11,854.80. The 36 months of repayments were set at just over £329 each. It was repaid in full in October 2021.

Everyday Lending's view after Miss M had complained was in its final response letter (FRL) dated October 2021. In that FRL it said that she earned £1,442 each month after tax, she lived with her parents which cost her only £200 a month. It had checked Miss M's bank statements, payslip and her credit file and had checked up about her job.

It had calculated using its formula that before its intervention her monthly expenditure was around £2,040 each month. '*Our affordability calculation conducted at the time showed she had a monthly disposable income of £401.96 after taking into account consolidated loans and Everyday Loans monthly repayments.'*

Miss M referred her complaint to the Financial Ombudsman Service and one of our adjudicators thought that Everyday Lending ought not to have lent to Miss M. She considered that Miss M's total monthly credit payments represented a significant proportion of her income and so there was a significant risk that Miss M wouldn't have been able to meet her existing commitments without having to borrow again.

Miss M agreed with that but Everyday Lending disagreed. It said that Miss M had been living at home with her parents and so she was paying little or no board and in its view her 'disposable income ' was just under £402 each month. It said that the disposable income amount would rise to just under £756 each month if its calculations used for Miss M's 'general day-to-day living expenses' were altered.

The unresolved complaint was passed to me to decide.

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 Lending , each time it lent, complete reasonable and proportionate checks to satisfy itself that Miss M would be able to repay in a sustainable way?

- If not, would those checks have shown that Miss M would have been able to do so?

The rules and regulations in place required Everyday Lending to carry out a reasonable and proportionate assessment of Miss 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 Miss 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 Miss 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.

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 of time 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 Miss M's complaint.

Everyday Lending's approach to the complaint is relatively simple – it consolidated her debt and made it easier to pay off and it had overstated her general living expenses using the formula it usually used to calculate living expenses. And it says to us that if her actual day to day expenses are considered then Miss M would have been able to afford this loan.

So, I have reviewed the income and expenditure information I have for Miss M which would have been the information Everyday Lending gathered at the time it approved the loan.

Miss M had told Everyday Lending that she was living at home with parents and so it's likely that her household expenditure would be lower than many other applicants for loans. But that does not mean she had not got into debt.

The credit search Everyday Lending carried out gave it this information: Miss M had two live loans with a total balance of £1,095, five accounts in the 'revolving credit' category which can include credit card accounts – total balance outstanding on those was £3,057. And there were records of former and current payday loans. There were no adverse entries such as defaults or any insolvencies. Everyday Lending created a debt table which I have duplicated in part here:

Type of account	**Balance**	**Settlement**	**Repayment – all monthly save for one that is marked***
High cost short term loan (HCSTL)	£1	£0	£0.01
High cost instalment loan #	£700	£1,823	£700 #
HCSTL #	£400	£371.28	£106 #
HCSTL #	£773	£816.09	£188.31 #
HCSTL #	£148	£981.83	£320 #
Credit card type facility attached to current account	£515	£576.34	£15.45*
Credit Card 1	£255	£0	£7.65
Three credit cards	Total o/s balance £2,287	£0	Payments to all three £68.61
Loan	£322	£324.28	£65

Some were marked 'Yes' on Everyday Lending's records which demonstrates that it planned to consolidate those debts. These are marked with a # in the table above.

Everyday Lending had calculated that the usual monthly repayments for the loans she was consolidating into one loan with it was £1,330 and I reached a similar figure. And the new loan would have been costing Miss M £329 a month. So, the consolidation loan released some cash each month but the commitment was for 36 months and put back the debt – it did not cure the underlying issue. And Miss M had additional debt on top of the ones she was consolidating into the Everyday Lending loan.

I've seen no evidence of Everyday Lending paying down those debts directly. The loan account record I've seen (Annual Statement for September 2021) shows that £5,000 was advanced to Miss M directly on 16 July 2018. And I have seen a copy of Miss M's bank account statement and the full £5,000 did credit it on that day. I realise that sometimes the other lenders will not accept payments from the advancing lender such as Everyday Lending. But still there's no evidence I've seen that it checked what Miss M was going to do with the £5,000 or had any procedures in place to ensure that was done.

The Office of National Statistics data used to calculate Miss M's living expenses was £354 a month on top of the rent she said she paid to her parents. And I can see Everyday Lending's perspective that the actual cost each month to Miss M was probably not £554. But still – that was its method and in the past it has defended that method as being the correct approach. And one element is that by doing it that way it builds in a margin which can be a useful element of a creditworthiness assessment. And this may have been important for a 36 month loan as Miss M's circumstances may have altered and she does have more household expenditure going forward.

The bank statements Everyday Lending viewed at the time of the loan showed that Miss M had several payday loans, and returned direct debits and the revolving credit facility attached to her bank account. And it showed payments to her credit cards.

Miss M's total monthly credit repayments, even after the loan consolidation, when including her minimum payments to her credit card type accounts represented a significant proportion of her income – around 37%. That was around 5% minimum repayments on the credit card and credit card type facility which came to around £153 each month. And then she had another loan at £65 each month. Plus Miss M would have been paying the Everyday Lending loan of £329. So that would have come to around £547 each month which would have been around 37% of her income after tax. I consider that a relatively high proportion.

Plus, it can't be ignored that Miss M was required to paydown the capital sums she had outstanding on her credit cards (and credit card type facility) – about £3,000, and so that would have been more money to pay out as well. Everyday Lending knew of these outstanding capital sums to pay off.

In these circumstances, there was a significant risk that Miss M wouldn't have been able to meet her existing commitments without having to borrow again. So, I think it's unlikely Miss M would've been able to sustainably meet her repayments for this loan.

And I do not think that Everyday Lending was sufficiently careful and focussed on ensuring that Miss M did paydown the debts for which she was taking this loan otherwise Miss M would have been left with debt on top of existing debt. And in any event – the repayments were a high percentage of her income and so not sustainable.

I uphold Miss M's complaint.

Putting things right

I understand that Miss M has repaid this loan in October 2021.

To put things right I think that Everyday Lending should do as follows:

- add up the total amount of money Miss M received because of having been given all the loan. The repayments Miss M made should be deducted from this amount.
- If this results in Miss M having paid more than she received, any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement). †
- To remove any negative information recorded on Miss M's credit file relating to this loan.

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

My final decision

My final decision is that I uphold Miss M's complaint and I direct that Everyday Lending Limited does as I have outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 7 December 2022.

Rachael Williams
Ombudsman