

The complaint

Ms B, through her representative, complains that Everyday Lending Limited, trading as Everyday Loans, lent to her when she could not afford it.

What happened

Ms B took two loans from Everyday Lending. Here is a brief table of her borrowing.

Loan	Approved	Amount	Term and repayment	Paid off
1	17 December 2017	£1,200	£1,834.44 over 12 months at £152.87 each month	Settled using loan 2
2	17 August 2018	£3,200	£8,142.54 over 42 months at £193.87 each month	Settled March 2022

Everyday Lending settled loan 1 using loan 2 funds, plus it paid off a credit card directly with a cheque (£152) and the balance paid to Ms B was £2,528.75. There was an account note which indicated Ms B was going to use it to pay off a mail order account balance and use the rest for home improvements.

Everyday Lending reviewed her payslips and her bank statements for both loans.

After Ms B had received the final response letter (FRL) from Everyday Lending, her representative referred her complaint to the Financial Ombudsman Service where one of our adjudicators looked at it.

Our adjudicator thought that loan 2 ought not to have been approved for Ms B and so he thought it should put things right for her for loan 2 only. Everyday Lending did not reply to that outcome. Ms B's representative did not respond either.

The unresolved complaint was referred to me after both parties had been notified that it was being referred to an ombudsman on 7 March 2023. Neither party has sent in any further comments or evidence.

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.

Taking into account 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 Ms B would be able to repay in a sustainable way?

- If not, would those checks have shown that Ms B 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 Ms B'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 B 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 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 B. 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 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 Ms B's complaint.

Loan 1

With regard to whether Everyday Lending carried out proportionate checks, it has said it obtained and reviewed Ms B's bank statements for two months and a credit search. It also checked where she worked.

Everyday Lending said it used statistical data and figures to calculate the living expense element of affordability. Everyday Lending had set this as 35% of a customer's net income. This calculation takes into consideration the customer's income, region, household composition and residential status.

Everyday Lending has demonstrated through notes on the documents and having viewed Ms B's payslips that it used the lowest salary figure it had seen which was £1,257.88 as take

home pay each month. It knew her rent was £450. There are at least two notes in the documentation to demonstrate that Ms B had said to Everyday Lending that of the £450 rent her grown-up son paid £200 a month. However, it seems that Everyday Lending did not add this into its calculations. And I consider that the prudent and correct approach to take as I'd consider that monthly cash contribution from her son an arrangement which was relatively loose and may have come to an end if, for instance, her son had moved out.

It said its affordability calculation showed that Ms B would have a monthly disposable income of £63.91 after taking into account her new Everyday Loan monthly repayments. This figure is from the excel spreadsheet Everyday Lending submitted to us to demonstrate its income and expenditure (I&E) calculations. However, the FRL indicated that figure was £49.33 after accounting for the Everyday Loans loan 1. I am more inclined to accept the I&E figures on the spreadsheet as the FRL may have been incorrect.

I think the checks were proportionate in the circumstances of this case and didn't indicate that the repayments on the loan were likely to be unsustainable for Ms B. The loan was relatively modest and for a relatively short period and so although the figures were close, I consider that the approach was sound and in summary, I don't find that Everyday Lending did anything wrong when it provided this loan to Ms B. Her credit commitments in December 2017 when she applied for loan 1 were light.

Loan 2

Everyday Lending carried out similar checks for Loan 2. Ms B's expenses were similar. The income figure it used was £1,229.56. However, her debt had increased. And whilst I accept that the overall debt figures may not have been as high as I see with some customers applying to Everyday Lending for loans, here Ms B was a relatively low earner. And so for Ms B I think that the overall debt was quite a lot for her.

I think the point to note here is that the figures were very tight and there was an account note for loan 2 in which the Everyday Lending representative had written that down. So, using its own evidence I can see that this loan was unaffordable for Ms B.

It said its affordability calculation showed that Ms B would have a monthly disposable income of £6.40 after taking into account her new Everyday Loan monthly repayments. And so even on its own figures this would have been far too little left over for this to be considered sustainable for Ms B especially as the loan was due to last for a further 42 months.

I uphold Ms B's complaint about loan 2.

Putting things right

I understand that loan 2 has been repaid. To put things right Everyday Lending should:

- remove all interest, fees and charges applied to Loan 2,
- treat any payments made by Ms B in respect of this loan as payments towards the capital amount of £3,200,
- If Ms B 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,
- remove any adverse information about Loan 2 from Ms B's credit file.

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

My final decision

For the reasons given above, I'm upholding Ms B's complaint in part. Everyday Lending Limited (trading as Everyday Loans) should put things right for Ms B as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 18 April 2023.

Rachael Williams
Ombudsman