

The complaint

Mr P complains Everyday Lending Limited trading as Everyday Loans provided him with an unaffordable loan.

Mr P is represented by a claims management company, but for ease I'll refer to all submissions as though they are his own.

What happened

In September 2018 Mr P was provided with a loan of £2,200 by Everyday Loans. The monthly repayments were around £185 over 36 instalments, with a total repayable value of around £6,640.

Mr P complained to Everyday Loans in May 2022. He said it had irresponsibly provided him with the loan as had it completed reasonable and proportionate checks, it would have identified the loan was unaffordable for him. Mr P referred his complaint to our service when Everyday Loans didn't uphold it.

Our investigator reviewed the complaint and upheld it. She said Everyday Loans had completed proportionate checks when assessing the lending request; but hadn't gone on to make a fair lending decision when approving the loan. She said this because she considered Everyday Loans had enough information, from the evidence it obtained, to suggest the loan wasn't sustainably affordable for Mr P.

Everyday Loans didn't accept our investigator's outcome. It said it engaged with the information it obtained and identified that Mr P would be left with enough disposable income each month to be able to afford the repayments over the full term of the loan. It maintained its argument that it therefore made a fair lending decision.

Everyday Loans asked for an ombudsman's review, so the complaint has been 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 approach to complaints about irresponsible and unaffordable lending as well as the key rules, regulations and what we consider to be good industry practice on our website.

Everyday Loans needed to take reasonable steps to ensure the lending it provided was responsibly lent to Mr P. The relevant rules, regulations and guidance at the time Everyday Loans lent required it to carry out reasonable and proportionate checks. These checks needed to assess Mr P's ability to afford the loan and repay it sustainably over its term, without causing him financial difficulties or harm.

There isn't a set list of checks a lender needs to carry out, but the checks should be proportionate, taking into account things like the type, amount, duration and total cost of the credit, as well as the borrower's individual circumstances.

And it isn't sufficient for Everyday Loans to just complete proportionate checks – it must also consider the information it obtained from these checks to make a fair lending decision. This includes not lending to someone in financial hardship; and ensuring repayments can be made sustainably without the need to borrow further.

Everyday Loans says it completed reasonable and proportionate checks before going on to make a fair lending decision when approving this loan. Having carefully considered its argument, I'm not persuaded it did complete proportionate checks; or went on to make a fair lending decision in this instance. I've explained why below.

Everyday Loans says it went through an income and expenditure assessment with Mr P as part of its checks, obtaining declarations from Mr P. It has said it verified his income by obtaining one month's payslip; and that it used ONS data to obtain a reasonable level of regular monthly expenditure for Mr P, as well as completing a credit check to identify his existing credit commitments.

Mr P's declared monthly income and expenditure generally matched the information Everyday Loans obtained through its checks of his payslip and the ONS data it used for his expenditure. But I consider the information it obtained within the credit check ought to have caused some concern for Everyday Loans, and ought to have prompted further checks.

I say this because Mr P had opened three accounts within two months of this lending request. Two of the accounts appear to have been payday loans opened in June and July 2018, suggesting Mr P wasn't able to maintain his existing living expenses without supplementing his income. And the other account was a credit card with a limit of £500. This credit card had been opened less than a month before this loan. So, while showing on the credit check, it hadn't reported for long enough to reflect a true position in terms of Mr P's utilisation of the limit. Everyday Loans would have also seen that a more established credit card was above its agreed limit, and that Mr P had two active CCJs; although these were historic, Mr P still had an obligation to maintain payments to them.

In addition to this information the affordability calculation Everyday Loans completed suggested Mr P was left with less than £50 disposable income per month, after all deductions, including repayment of this loan, were taken into account.

I therefore consider the evidence Everyday Loans obtained suggested Mr P was managing his finances to a very tight budget, and appears to have been supplementing his income in the months leading up to this lending to maintain his commitments. As such Everyday Loans ought to have looked to obtain a full understanding of his financial situation before agreeing to lend to him. It should have verified Mr P's regular expenditure, in addition to his income and credit commitments, to ensure this loan would be sustainably affordable to him across the full term.

One way it could have done this would have been to obtain bank statements evidencing his financial situation in the months leading up to the loan. Everyday Loans has said its checks included obtaining and reviewing up to two months' worth of bank statements; however, it hasn't provided our service with a copy of these from the point of the lending decision. I can see it did request and obtain bank statements from Mr P as part of its review of his complaint, and it has forwarded us a copy of these. So, as Everyday Loans hasn't been able to evidence it did obtain and review Mr P's bank statements as part of its original lending

checks, I've proceeded on the basis that these weren't part of Everyday Loans' checks at the point of the application.

I've used the bank statements to obtain an understanding of what Everyday Loans would likely have seen at the time of its lending decision, had it completed proportionate checks.

The bank statements confirm that Mr P was managing his account to a very tight budget, especially taking into account his relatively modest income. There is evidence of arranged and unarranged overdraft charges; Mr P went over his agreed overdraft limit on two separate occasions in July, and once in August 2018.

Mr P's monthly income is on average around £850, which was broadly in line with the income Mr P had declared on his application and was evident from the payslip Everyday Loans obtained. His regular expenditure totals on average around £600 per month, based on the statements Everyday Loans obtained at the point of the complaint. This expenditure is largely made up of household bills and transactions for food and petrol. This figure doesn't include payments to Mr P's existing credit commitments, but based on the information Everyday Loans completed as part of its checks, it appears this loan would've been adequate to consolidate all of the existing credit commitments it had identified from Mr P's credit file, as well as the payday loans he appears to have declared. But Mr P still needed to make payments towards his active CCJs, which Everyday Loans had allocated around £35 to per month.

This means Mr P would be left with around £215 disposable income each month, before taking into account the payments towards this loan of around £185. So, Mr P would be left with around £30 per month for all other expenses; and I'm not persuaded this was sustainable.

I say this because I don't consider having around £30 disposable income per month is a reasonable safety blanket for any unexpected costs than may occur; or gave Mr P reasonable space should he find that from month to month his non-discretionary expenditure increased even marginally. This loan was tying Mr P into a 36-month contract, and I don't consider this level of disposable income would be sustainable over such a period of time.

Everyday Loans was also aware that Mr P was a homeowner as the credit check it completed evidenced a recently settled mortgage account, and Everyday Loans has stated that Mr P had an unencumbered property. Even so, it was aware that Mr P could likely experience unexpected costs associated with the property, even just for general wear and tear reasons.

Had Every Loans completed reasonable and proportionate checks it ought to have identified that this lending, regardless of the purpose, was unsustainable or otherwise harmful to Mr P.

So, it therefore follows I'm satisfied Everyday Loans made an unfair lending decision when providing Mr P with this loan.

Putting things right

As Mr P's had the benefit of the lending, I think it's fair that he repays the capital amount borrowed. But Mr P has paid interest and charges on a loan that has now been repaid but that shouldn't have been provided. So, I think Mr P has lost out and Everyday Lending Limited trading as Everyday Loans should put things right by taking the following action:

- Remove all interest, fees and charges applied to the loan from the outset. Any

payments made by Mr P should then be deducted from the new starting balance. If the payments Mr P has made total more than the amount he was originally lent, then any surplus should be treated as overpayments and refunded to him;

- Add 8% simple interest* calculated on any overpayments made, from the date they were paid by Mr P, to the date the complaint is settled; and
- Remove any adverse information recorded on Mr P's credit file as a result of this loan

*HM Revenue & Customs requires Everyday Lending Limited trading as Everyday Loans to deduct tax from this interest. Everyday Lending Limited trading as Everyday Loans should give Mr P a certificate showing how much tax it's deducted, if he asks for one.

My final decision

I'm upholding Mr P's complaint about Everyday Lending Limited trading as Everyday Loans and direct it to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 16 June 2023.

Richard Turner
Ombudsman