

## **The complaint**

Miss R complains Everyday Lending Limited trading as Everyday Loans irresponsibly provided her with an unaffordable loan.

Miss R also complains about some of the conditions of the loan; including how the loan would be amended if a part repayment was made, and the level of interest added due to a missed payment.

## **What happened**

Everyday Loans provided Miss R with a £3,000 loan over a term of 36 months in November 2022. The monthly repayments were around £255 and the loan had a total repayable value of around £9,140.

Miss R complained to Everyday Loans in June 2023. She said had Everyday Loans completed reasonable and proportionate checks it would have identified the loan was unaffordable for her; and she says she was told incorrect information about the conditions of the loan.

Everyday Loans didn't uphold the complaint saying it completed proportionate checks and made a fair lending decision. Unhappy with Everyday Loans's response Miss R brought her complaint to our Service for review.

Our Investigator considered the details and upheld Miss R's complaint. While she considered Everyday Loans's checks to be proportionate, she concluded the loan wasn't sustainably affordable for Miss R based on her existing living costs and credit commitments. She therefore concluded Everyday Loans hadn't made a fair lending decision when approving the loan. She went on to consider the additional points Miss R had made about the loan, but didn't find Everyday Loans had acted unfairly in regards to these points.

Miss R accepted our Investigator's outcome. Everyday Loans didn't. It responded with a number of points, mainly detailing the affordability of the loan, and in summary concluded Miss R was still left with a reasonable level of disposal income after a revised affordability assessment was considered.

Everyday Loans asked for an Ombudsman's review, so the complaint's 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.

Having done so I've reached the same outcome as our Investigator; for broadly the same reasons.

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; both Miss R and Everyday Loans are aware of this approach.

Everyday Loans needed to take reasonable steps to ensure the lending it provided was responsibly lent to Miss R. The relevant rules, regulations, and guidance at the time of Everyday Loans's lending decision required it to carry out reasonable and proportionate checks. These checks needed to assess Miss R's ability to afford the loan being provided and repay it sustainably, without causing her financial difficulties or harm.

There isn't a set list of checks a lender needs to carry out, but they should be proportionate, considering 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.

I've taken this into account when reaching my findings.

#### The complaint about irresponsible lending

Everyday Loans has said it verified Miss R's actual income and expenditure by obtaining two months' bank statements covering the period immediately before this loan was approved. It has said it compared this to Office of National Statistics (ONS) data to identify reasonable monthly living costs, and that it completed a credit check to understand Miss R's existing credit commitments, as well as reviewing her recent and historic management of her lines of credit.

Everyday Loans has said it considers these checks to have been proportionate; and that it went on to make a fair lending decision when providing this loan to Miss R.

I've carefully considered Everyday Loans's arguments; and while I'm satisfied its checks were proportionate, I'm not persuaded it went on to make a fair lending decision.

The credit check Everyday Loans obtained showed Miss R had been in arrears on one of her credit card accounts around ten months before this lending. While on its own not necessarily a concern for Everyday Loans, the check also showed Miss R had opened four lines of credit within the ten months leading up to this loan; a loan, two credit cards and a mail order account. The available limits across both credit cards appear to have been used relatively quickly, with utilisation averaging around 90% across the two cards at the time of this lending event.

While the balances of Miss R's existing credit commitments may be modest, her available credit and indebtedness had significantly increased in the ten months leading up to this loan, suggesting Miss R was becoming more reliant on credit to meet her day-to-day living costs and financial commitments.

Miss R's statements show she was regularly using her overdraft, and to a high utilisation. While her salary brought the account into credit each month, Miss R did use the overdraft across each of the months Everyday Loans obtained statements for. And, significantly, in both October and November 2022, Miss R had returned direct debits; towards communication agreements, a credit card and a loan.

When Everyday Loans questioned Miss R about these returned payments it appears to have been satisfied with the explanation she provided. But I'm not persuaded it should have been so easily accepting of her reasons. I say this because this wasn't just one occasion where a payment had been returned unpaid; there are eight direct debits returned across the period Everyday Loans reviewed, across six different days. And I've not seen within the statements that all of these returned payments were made at a later date.

But in any event, I consider the evidence Everyday Loans obtained suggested this lending wasn't sustainably affordable for Miss R.

The bank statements Everyday Loans obtained covering the period of around two months showed three salaried payments credit the account. These ranged from around £1,735 at the start of the three-month period to around £2,000 for the most recent two months.

Our Investigator felt taking an average of the three payments was a reasonable approach. Everyday Loans challenged this. It said Miss R was paid every four weeks, and that a more reasonable approach would have been to have converted Miss R's more recently evidenced higher salary into a monthly amount.

I've carefully considered Everyday Loans's argument here, but I can't agree with it. I've reviewed the bank statements which cover three salary payments as detailed above. And across these three months Miss R's salary payments credit her account on the last Friday of each of these months; 26 August, 30 September and 28 October 2022. Between the August and September 2022 salary is a five-week period. So, the evidence I have which has been provided by Everyday Loans does suggest Miss R was paid on a monthly basis rather than a four-weekly basis.

Given Miss R's last two salary payments were around £2,000, I've used this figure when reviewing affordability.

Everyday Loans used a figure of around £1,100 for Miss R's non-discretionary living costs. Having reviewed Miss R's statements this feels reasonable. Miss R has explained that around this time she had purchased a property and there was a lot of money being transferred in and out of her account in relation to the property and associated costs. This does mean her statements aren't a true reflection of what would reasonably be considered normal activity. But taking everything into account I've not seen anything which leads me to believe the figure of £1,100 Everyday Loans used for Miss R's living costs to be unreasonable in the circumstances.

Miss R declared her share of the monthly payment towards the property as being around £310. And from the credit check Everyday Loans completed it could see Miss R had existing credit commitments. Miss R had one loan with a monthly commitment of around £100 per month, and three credit cards which it calculated around £100 per month towards. However, it used a 3% monthly repayment figure which I don't consider to be a reasonable calculation.

Miss R's total revolving debts across her cards stood at around £2,300 at the time of Everyday Loans's checks. It needed to calculate a reasonable level of repayment towards these debts that would result in Miss R repaying them within a reasonable period of time. I consider an 18-month period to be reasonable for this level of debt. So, with interest across that period I consider it's reasonable to conclude Everyday loans should have calculated around £150 per month towards repayment of Miss R's card debts.

Taking into account Miss R's income of around £2,000, her non-discretionary payments towards her property and living costs totalling around £1,410, repayments to her existing credit commitments at around £250, and repayments to this loan of around £250, Miss R

would be left with less than £100 disposable income each month; and I don't consider this a reasonable level of disposable income to leave Miss R with across the full term of this loan.

It's therefore clear this loan wasn't sustainably affordable for Miss R, and I'm satisfied Everyday Loans made an unfair lending decision when providing this loan.

#### The complaint about the conditions of the loan

Miss R has complained about how part repayments would amend the terms of the loan; as well as the amount of interest that's been added to the loan because of a missed payment.

Everyday Loans has provided copies of call recordings which I've listened to, but all appear to be after the lending event. Some are specifically in relation to how part repayments would amend the term of the loan rather than reduce the monthly repayments, in which Miss R explains she was told different information at the application stage. But as these are after the event, I can't safely be sure what was discussed at the time.

While I don't doubt the testimony Miss R has provided this Service, Everyday Loans has presented a conflicting account. In situations where information is disputed, I must put more weight on the documentary evidence available to me.

I've reviewed the credit agreement Miss R signed, confirming her acceptance of the loan and its associated conditions. Section 10.1 sets out how part repayment of the loan would work, and confirms that a part repayment would be used to reduce the term of the agreement but monthly repayments would remain the same.

So, I consider Miss R was reasonably made aware how part repayments would work.

Miss R has also complained about the amount of interest added to the loan due to a missed payment.

As I've found above that this loan was unfairly lent, part of my direction on redress is for Everyday Loans to remove all interest and charges added to the loan. So, I won't go into further details on this part of Miss R's complaint as it will be resolved by the overall outcome.

#### **Putting things right**

Miss R's had the use of this loan, so I consider it's fair that she repays the capital amount lent. But Miss R has paid interest and fees and charges on a loan that shouldn't have been provided. So, Miss R has lost out and Everyday Lending Limited trading as Everyday Loans needs to 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 Miss R should then be deducted from the new starting balance
  - a. If the payments Miss R has made total more than the amount she was originally lent, then any surplus should be treated as overpayments and refunded to her, together with 8% simple interest\* calculated on any overpayments made, from the date they were paid by Miss R to the date the complaint is settled
  - b. If after the adjustments have been made there is still a balance to pay, Everyday Lending Limited trading as Everyday Loans should discuss arranging a suitable/affordable payment arrangement with Miss R for the remaining balance
- Remove any adverse information recorded on Miss R's credit file as a result of this

loan once any outstanding balance has been repaid

\*HM Revenue & Customs requires Everyday Lending Limited trading as Everyday Loans to deduct tax from any award of interest. It must give Miss R a certificate showing how much tax has been taken off if she asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

### **My final decision**

I'm upholding Miss R's complaint about Everyday Lending Limited trading as Everyday Loans and I direct it to settle the complaint as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 27 March 2024.

Richard Turner  
**Ombudsman**