

## The complaint

Miss T has complained that Everyday Lending Limited trading as Everyday Loans (“Everyday Loans”) didn’t carry out sufficient affordability checks before it lent to her. Had it done so it would’ve discovered Miss T had a recently opened a car loan and had a number of outstanding credit agreements.

## What happened

Miss T was given one loan of £2,000 by Everyday Loans on 19 August 2022. Miss T was due to make 24 monthly repayments of £180.33 and had she made her payments as expected she would’ve repaid Everyday Loans £4,327.92. An outstanding balance remains due but based on emails I’ve seen it would appear Everyday Loans has accepted a repayment plan through a well-known debt advice charity.

Following Miss T’s complaint Everyday Loans explained it had carried out proportionate checks which showed the loan to be affordable. However, Everyday Loans did offer £100 to Miss T because it had failed to initially investigate her complaint because it had been “*missed*”. This offer was made in full and final settlement and Miss T agreed to it.

An Investigator then reviewed the complaint, and she upheld it saying the credit check results along with the income and expenditure information suggested Miss T wasn’t able to repay the loan.

Miss T accepted the Investigator’s findings but Everyday Loans didn’t saying in summary:

- Miss T had sufficient disposable income to afford the loan.
- Miss T’s expenditure was verified using her bank statements and for expenditure Everyday Loans used Office of National Statistics (ONS) data and to this it added a further buffer.
- The credit check results didn’t indicate Miss T was having financial difficulties.
- Everyday Loans was aware of the defaults but also that Miss T was making repayments towards them through a debt collector.

These comments didn’t change the investigator’s mind about the outcome. As no agreement could be reached the complaint was passed to me. I then issued a provisional decision explaining why I was intending to uphold Miss T’s complaint in part.

Both parties were asked for any further submissions they wished to make but these had to be received by 25 July 2024.

Everyday Loans responded and confirmed that an account freeze was applied on 27 December 2023 and the account has been rescheduled so no more interest will be paid by Miss T than what was originally outlined in the loan agreement.

Miss T also responded and I’ve summarised her comments below.

- She was living in her overdraft at the time.

- At the time of the application she was encouraged to downplay her expenditure in order to enable the loan to be approved.
- When Miss T was declined for another loan in July 2023, it would've been prudent for Everyday Loans to look at ways of reducing her monthly repayments.
- This could've been achieved by advancing Miss T another loan in order to repay the first loan and that would've allowed Miss T to reduce her monthly outgoings.

A copy of the provisional findings follows this in smaller font and forms part of this final decision.

### **What I said in my provisional decision:**

*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. The rules and regulations in place required Everyday Loans to carry out a reasonable and proportionate assessment of Miss T's ability to make the repayments under the loan agreement.*

*In practice this meant that the business had to ensure that making the repayments on the loan wouldn't cause Miss T 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 Loans to simply think about the likelihood of it getting its money back - it had to consider the impact of the loan repayments on Miss T. 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 Miss T. Even for the same customer, a proportionate check could look different for different applications.*

*In light of 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 of the arguments, evidence and information provided in this context and what this all means for Miss T's complaint. Having looked at everything I have decided to conclude those checks were proportionate and the repayment of the loan appeared affordable. I have therefore decided not to uphold Miss T's complaint about the lending decision and I've explained why below.*

*I'm sorry to hear about the bereavement in Miss T's family and the impact on her health – I do hope things are improving for her.*

*Miss T would've initially been pre-approved for the loan and then asked to attend a branch for a discussion which involved reviewing two months' worth of bank statements, her credit file and anything else that Everyday Loans may have needed to have considered. At which*

point Everyday Loans says a full income and expenditure was completed which used information from Miss T's bank statement as well as using Office of National Statistics (ONS) data.

Miss T's total monthly income was calculated at just over £1,541 per month this was made of salary, benefits and maintenance. Although Everyday could see that Miss T's salary was larger in July 2022 than it had been in the months before, to err on the side of caution it used the smaller salary figure, which was reasonable.

I can see from Everyday Loan's calculations that it did use ONS data but has also used the information contained within the bank statements that Miss T provided as part of her application.

It knew Miss T's rent contribution was just over £70 per month, she already had existing creditors including those to debt collectors of around £270 per month. Everyday Loans then carried out a detailed income and expenditure of Miss T's other living costs, together with an additional buffer and it believed Miss T's outgoings came to £1,384 per month.

However, it is worth saying here that most of the information used for the income and expenditure details were taken from her bank statements – which Everyday Loans reviewed. However, there were other items which weren't visible on her bank statement for example gym membership but Everyday Loans still added the ONS expenditure for it and it's also worth saying it added a buffer to the figures as well.

The banking data did show that on one of Miss T's account she used her overdraft, but I don't think in the circumstances, given the limit was £250 that it would've given Everyday Loans any concerns that Miss T couldn't afford her loan.

Everyday Loans, as part of its affordability assessment carried out a credit search and it has provided the Financial Ombudsman with a summary of the results it received from the credit reference agency. Everyday Loans was told Miss T had around £13,00 of existing credit commitments but she hadn't opened any other credit facilities within the six months before the loan was approved. The number of active accounts and the number of new facilities wouldn't have been of any concern to Everyday Loans as it didn't indicate any reliance on any form of credit.

It is also worth saying here that the majority of the debt – over £9,000 of it was due to Miss T having a hire purchase agreement that was costing her around £180 per month. The information given to Everyday Loans showed the hire purchase agreement was being well maintained. Miss T said it would've seen this was a recently opened account, but it had been repaid well without any obvious difficulties for around the last year.

Everyday Loans was told that there were no delinquent accounts, missed payment on active accounts, other forms of insolvency or County Court Judgements recorded on Miss T's credit file and she hadn't used payday loans either which further suggested to Everyday Loans that Miss T was managing her active credit commitments well without any problems.

However, Everyday Loans was told of a number of defaulted accounts which occurred in 2018 and 2019. Everyday Loans made enquires with Miss T about the balances and she gave what I consider to be a reasonable explanation as to why these accounts had defaulted – and this was due to a change in personal circumstances. She was also making headway into repaying the defaulted balances as Everyday Loans noted these payments on her bank statements. These defaults were historic – in nature and Miss T was taking steps to repay what she owed, so I don't think these accounts would've been of any concern to Everyday Loans.

Overall, taking account of Miss T's income and what Everyday Loans discovered from her credit report wouldn't have prompted either further checks or to have declined her application for credit.

*It therefore follows that in my view Everyday Loans conducted proportionate checks that showed it Miss T ought to be able to afford her loan repayment and so I am intending to not uphold his complaint about the loan, and I make no award against Everyday Loans.*

*I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think Everyday Loans lent irresponsibly to Miss T or otherwise treated her unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.*

*I understand that an outstanding balance remains due and is currently being repaid through a repayment plan. I would remind Everyday Loans of its obligation to treat Miss T fairly and with forbearance.*

### **Other considerations**

*Everyday Loans in the final response letter, has outlined that it could've handled the complaint more efficiently, and it has already paid compensation to Miss T for this. I also understand, that Miss T is unhappy she applied for another loan in July 2023, and was asked to attend branch at which point the loan couldn't be progressed due to affordability concerns.*

*Miss T said she had to take time off work and pay for parking. I can understand why Miss T was frustrated by the process but, I also don't think it would've been right for Everyday Loans to have approved a loan in a situation where it could see that it wasn't affordable for her. Especially as Miss T already had an outstanding loan with it.*

*After this loan application was declined, I can see, from the notes that Miss T entered the debt respite scheme; I haven't seen anything to suggest that Everyday Loans hasn't honoured its obligations while Miss T was in her respite.*

*After the 60 day hold ended, Miss T was in further contact with Everyday Loans about the balance and she advised it that she was working with a third party in order to set up a repayment plan.*

*From the notes, by 4 December 2023, Everyday Loans knew that Miss T had entered a debt management plan and that it would be starting in January 2024. There was then further contact, and Everyday Loans told the debt management provider in February 2024, that while it would accept the payment, interest would continue to be charged at the contracted rate.*

*I haven't seen the paperwork in relation to the debt management plan, but from Everyday Loans' notes it's clear the amount being offered was relatively small compared to the contracted payment. Miss T was due to around £180 per month towards the loan and based on the notes she is currently paying around £27 per month.*

*So, Everyday Loans knew that Miss T was in difficulties in 2023 because she had entered a respite scheme, and then it acted fairly by working with and accepting the payments from her debt management plan. But what I don't think is fair, reasonable or is treating Miss T with forbearance, despite knowing about Miss T's difficulties to the extent that she needed a debt management plan, that it continued to add the contracted interest amount to the balance. Which by doing so further compounded what was already a difficult situation.*

*In my view, Everyday Loans hasn't treated Miss T with due forbearance as outlined in the industry guidance CONC 7.3.5(1). This outlines some of the things that Everyday Loans could do to assist Miss T including cancelling or suspending any interest which is now due.*

*While I've now decided the loan was responsibly provided, that doesn't mean Everyday Loans ought to charge the contracted interest that was outlined in the credit agreement, after all, by 4 December 2023, when it was notified of the repayment plan it ought to have*

*considered whether continuing to apply interest was the right thing to have done given this would've had the effect of increasing Miss T's overall indebtedness.*

*And so, by 4 December 2023 - Everyday Loans ought to have considered suspending and cancelling any interest that it was due to charge on the remaining balance. This would've been treating Miss T with forbearance.*

*The result of this will be that from 4 December 2023, I don't think it's fair for charges or interest to continue to be added, and so whatever the balance was on that date is the balance Everyday Loan should collect on. Any interest or charges (whether contractual or late fees for example) added from that date needs to be deducted from the current outstanding balance.*

### **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.

I've thought about the additional submissions, but these haven't persuaded me to change my mind about the outcome that I've reached. This next section should be read in conjunction with the provisional decision above.

I am sorry to hear about the impact this has had on Miss T's health, I do hope things have improved for her.

I thank Everyday Loans for confirming that an account freeze was put in place on 27 December 2023, but I don't think that was early enough given the information that it had available to it and what I outlined in the provisional decision. So, I still think, for the reasons given above the freeze ought to have been applied on 4 December 2023.

I also want to reiterate, that the freeze being applied on 4 December 2023, will mean that from that date any interest that was due under the agreement needs to be removed from any outstanding balance and this is in my view consistent with its obligations to treat Miss T with forbearance.

As I said in the provisional decision, Everyday Loans ought to have cancelled any further interest or charges from the uphold date of 4 December 2023. The effect of applying forbearance in this complaint will be the loan should be interest free from 4 December 2023 – this will also mean any contracted interest due would need to be removed from the balance.

I have thought about what Miss T has said about the use of her overdraft, but given Everyday Loans reviewed her bank statements as well as her credit file, I don't think it would've been fair or reasonable for it to decline the loan solely because it could see that Miss T, at times made use of her overdraft.

Of course, I wasn't at the meeting Miss T had with the Everyday Loans representative so I can't be sure exactly what she was told about downplaying her outgoings. But I do know from the checks and evidence provided by Everyday Loans that it took account of her income – and erred on the side of caution with the amount it used and then used both ONS data and information from the statements to work out her monthly expenditure. For a first loan and thinking about the amount advanced and the term, I consider this check to have been proportionate.

I can understand why Miss T says the rate of interest was high for this type of loan and I do accept that the contracted interest is greater than say what she may have been able to

obtain from say a high street bank. But that being said, I can't uphold Miss T's complaint purely because of the level of interest Everyday Loans has charged. But as I've explained above, Everyday Loans ought to have stepped in sooner than it did, and the effect of this will be a freezing of the balance on 4 December 2023.

I've re-reviewed the email chain between Miss T and the Everyday Loans representative that followed her loan application in July 2023. The representative said that they couldn't even offer the lowest amount to Miss T – and as I said in the decision, I wouldn't be able to say that Everyday Loans needed to give Miss T a loan if – according to the email she wasn't able to pass the affordability assessment.

This does mean that Miss T's suggestions of providing a new loan to consolidate her existing borrowing may not have been possible. And based on what Miss T has told us, she was told that she needed to pay the monthly repayment otherwise, it may have impacted her credit file. I don't have the full context to how this was presented to her, but the underlying statement is correct – not making the contracted payments can and usually does lead to adverse information being reported to the credit reference agencies.

In saying the above, there was more Everyday Loans could've done, as I've outlined here and in the provisional decision. So, I've therefore set out below what Everyday Loans needs to do in order to put things right for Miss T.

### **Putting things right**

- Rework Miss T's outstanding balance as if no interest, fees or charges had been applied from 4 December 2023.
- Let Miss T know what her new outstanding balance is once the calculations have been conducted.

### **My final decision**

For the reasons I've explained and in the provisional decision, I'm upholding Miss T's complaint in part.

Everyday Lending Limited trading as Everyday Loans should put things right as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 30 August 2024.

Robert Walker  
**Ombudsman**