

Complaint

Mr S has complained about personal loans Everyday Lending Limited (trading as “Everyday Loans”) provided to him.

He says the loans were unaffordable and were therefore irresponsibly lent to him.

Background

Everyday Loans provided Mr S with an initial loan for £1,000.00 in February 2023. This loan had an APR of 99.9% and a term of 24 months. This meant that the total amount to be repaid of £1,932.00, including interest, fees and charges of £932, was due to be repaid in 24 monthly instalments of £80.50. This loan was settled early with some of the proceeds from loan 2.

Everyday Loans provided Mr S with a second loan for £3,770.51 in August 2023. This loan had an APR of 93.6% and a term of 36 months. This meant that the total amount to be repaid of £9,092.16, including interest, fees and charges of £5,321.65, was due to be repaid in 36 monthly instalments of £252.56.

When it investigated Mr S’ complaint, Everyday Lending agreed that it shouldn’t have provided Mr S with loan 2. However, it didn’t think that it had done anything wrong when providing loan 1 to Mr S.

One of our investigators reviewed Mr S’ complaint and she reached the conclusion that Everyday Loans also shouldn’t have provided Mr S with loan 1. So she thought that Mr S’ complaint about loan 1 should be upheld.

Everyday Loans disagreed with our investigator’s assessment. So the case was passed to an ombudsman as per the next step of our dispute resolution process.

As the parties are in agreement that loan 2 shouldn’t have been provided to Mr S, this decision is solely looking at whether Everyday Loans acted fairly and reasonably when providing Mr S with loan 1 and what effect this might have on what Everyday Loans has already agreed to do to put things right for loan 2.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

We’ve explained how we handle complaints about unaffordable and irresponsible lending on our website. And I’ve used this approach to help me decide Mr S’s complaint.

Having carefully considered everything I’ve decided to uphold Mr S’s complaint. I’ll explain why in a little more detail.

Everyday Loans needed to make sure it didn't lend irresponsibly. In practice, what this means is Everyday Loans needed to carry out proportionate checks to be able to understand whether Mr S could afford to repay any credit it provided.

Our website sets out what we typically think about when deciding whether a lender's checks were proportionate. Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender to be able to show that it didn't continue to lend to a customer irresponsibly.

I've carefully considered what's been provided in this context.

The information Everyday Loans has provided suggested that it carried out credit checks before it provided Mr S loans with his loans. The results of which showed that Mr S had a county court judgment ("CCJ") recorded against him.

Furthermore, I'm also concerned that Everyday Loans' own income and expenditure calculation for this loan showed that the monthly repayment would be taking Mr S close to the margin of his disposal income. This was in circumstances where the calculation relied on the use of average data and Mr S' CCJ suggested that he didn't fit the profile of the average borrower.

However, what I'm most concerned of all about is that a reasonable proportion of this loan was being provided to Mr S in order to consolidate a debt which to all intents and purposes was interest free. As far as I'm concerned any reduction in disposable income that Everyday Loans' calculations showed was illusory, given the interest free loan was over such a short period. In these circumstances, it's unclear to me how this loan, which was on such disadvantageous terms, was going to improve Mr S' financial position going forward.

All of this leaves me persuaded by what Mr S has said about already being in a difficult financial position at the time. And while it's possible Mr S' financial position reflected his choices rather than financial difficulty, I'd add that my experience of these types of cases suggest this is unlikely, in the absence of any reasonable or plausible arguments from Everyday Loans, I've been persuaded to accept Mr S' version of events here.

As this is the case, I do think that Mr S's existing financial position meant that he was unlikely to be able to sustainably afford the payments to loan 1 (as well as loan 2), without undue difficulty or borrowing further – indeed he was only able to pay loan 1 as a result of taking out loan 2.

I'm therefore satisfied that reasonable and proportionate checks would more like than not have shown Everyday Loans that it shouldn't have provided loan 1 to Mr S. As Everyday Loans provided Mr S with loan 1, notwithstanding this, I'm satisfied it failed to act fairly and reasonably towards him.

In reaching my conclusions, I've also considered whether the lending relationship between Everyday Loans and Mr S might have been unfair to Mr S under s140A of the Consumer Credit Act 1974.

However, I'm satisfied that what I'm directing Everyday Loans to do results in fair compensation for Mr S given the overall circumstances of his complaint. For the reasons I've

explained, I'm also satisfied that, based on what I've seen, no additional award is appropriate in this case.

Mr S ended up paying interest, fees and charges on a loan he shouldn't have been provided with. So I'm satisfied that Mr S lost out because of what Everyday Loans did wrong and that it should put things right.

While I've noted that Mr S has said that the amount he owes should be written off as he received the benefit of the funds and appears to have repaid outstanding balances he already owed, I'm satisfied that he should pay the amount he was lent, but all interest fees and charges should be removed.

As this will place Mr S in the position he would be if he did not have to pay any interest, fees and charges, I'm satisfied that such a remedy addresses any concerns that the costs of the loans may not have been made clear to him as well.

Fair compensation – what Everyday Loans needs to do to put things right for Mr S

Having thought about everything, Everyday Loans should put things right for Mr S by:

- refunding all interest, fees and charges Mr S paid on loan 1;
- adding interest at 8% per year simple on any refunded amounts from the date they were paid by Mr S to the date of settlement†;
- as it has already agreed to, removing all interest, fees and charges applied to loan 2 from the outset. The payments Mr S made, whether to Everyday Loans or any third-party debt purchaser, should be deducted from the new starting balance – the £3,770.51 originally lent.
 - If an outstanding balance remains on loan 2 once all adjustments have been made Everyday Loans can use any compensation due for loan 1 to reduce and/or clear this; OR
 - If once all adjustments have been made this shows that Mr S has made overpayments on loan 2, these overpayments should also be refunded to Mr S together with interest at 8% simple a year from the date they were made by Mr S to the date of settlement†;
- removing all adverse information recorded about loan 1 from Mr S' credit file. If no outstanding balance remains after all adjustments have been made to loan 2 then all adverse information recorded on Mr S' credit file as a result of this loan should also be removed.

† HM Revenue & Customs requires Everyday Loans to take off tax from this interest. Everyday Loans must give Mr S a certificate showing how much tax it has taken off if he asks for one.

My final decision

For the reasons I've explained, I'm upholding Mr S' complaint. Everyday Lending Limited should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 19 December 2024.

Jeshen Narayanan
Ombudsman