DRN-5501648

The complaint

Mr D complains that Everyday Lending Limited lent to him without carrying out sufficient affordability checks on the additional £1,000 over and above the £5,000 he'd applied for.

What happened

Mr D took one loan and here is a brief table showing some details.

Approved	Amount	Interest charged	Repayments (rounded)	Status
10 November 2022	£6,000 over 42 months	£6,805.80	42 x £305	Paid off 1 July 2024

Mr D had applied for a loan in July 2021 which was not proceeded with as he was asked for copy bank account statements. The account notes we have been sent indicate that Mr D informed Everyday Lending in July 2021 that he had payday loans and gambling transactions and so he was informed that the loan would be declined.

Mr D applied for the November 2022 loan on-line and then for the last part of it – in branch. Mr D complained in July 2024 after he'd paid off the loan which now is closed. Everyday Lending issued its final responses for this complaint on 28 August 2024, 5 September 2024 and on 10 September 2024 giving reasons why it was not upholding it. Everyday Lending has said that although it had noted the gambling transactions it had concluded that these were added into the Income & Expenditure (I&E) calculations and decided that the loan was affordable still. There were other elements of complaints covered off in the three final response letters which Mr D has confirmed do not need to be reviewed by me.

Mr D referred his complaint(s) to the Financial Ombudsman Service where one of our investigators looked into the irresponsible lending part. Our investigator thought that Everyday Lending had failed to evidence a part of the income figure it had used in the I&E calculations and upheld the complaint. She explained that the sum involved – a child benefit figure – was the difference between the loan being affordable to Mr D or otherwise.

Everyday Lending didn't agree with our investigator so, it was passed to me to decide. After I had reviewed the complaint I checked with Mr D about all his complaint points. Mr D has confirmed he is content for me to review the irresponsible lending part only.

I asked Mr D for additional information better to understand some of the payments and receipts I had seen in and out of his bank account. Further, I asked Mr D about the foundation of his complaint which is that he was gambling and Everyday Lending ought to have known of that and refused the loan. Mr D gave me some explanations which I will deal with later in the decision.

Having reviewed the complaint I asked Everyday Lending for some additional information as well – all of which I have received and reviewed.

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.

Considering 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 Mr D would be able to repay in a sustainable way?
- If not, would those checks have shown that Mr D would have been able to do so?

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 Mr D 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 he had a contractual or statutory obligation to make and without the repayments having a significant adverse impact on his 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 Mr D**.** 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 several factors including – but not limited to – the circumstances of the Mr D (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

I commence by saying that Everyday Lending has demonstrated to me that it was prepared to ask a lot of questions of Mr D and to obtain a lot of information from him before lending. But as I demonstrate in this decision, I don't think that it went far enough or that it approved the loan without being clear that Mr D was going to consolidate the other debts to make this one 'affordable'. I uphold the complaint. I explain my reasoning and my findings here.

Mr D informed Everyday Lending that he was employed full time, earned just under £2,265 each month after tax, his rent was £725 a month of which he paid £444 each month. He had two dependent children.

For the initial £5,000 lend, Everyday Lending spoke to Mr D on the phone, it used Office for National Statistics (ONS) data to work out general living costs which it then cross referenced by reviewing two months' worth of bank statements

> '*We use ONS as a starting point, but adjusted dependant on the information obtained from the statements and from the conversation with the customer. The highest of whichever figure is provided/seen is used*.'

Everyday Lending told us that when reviewing bank account statements, it looked for stress indicators:

> *'Stress indicators could include, but are not limited to, returned direct debits, bank charges, gambling transactions, transfers to secondary or third-party accounts, overdraft usage and overdraft fees.'*

It also took details of Mr D's partner's contributions to the household costs, and it carried out a credit check. It came to an expenditure figure of £2,349 a month and this figure was before any debt consolidation was carried out with the new funds, as Mr D had explained he wanted to use the new loan funds for that. This figure included the gambling transactions Everyday Lending was aware of each month – a relatively modest figure.

I've seen a copy of an I&E Everyday Lending used which shows:

50% of rent	£444
Creditor expenses	£768
ONS data living expenses	£1,159

So –the total Mr D was spending was £2,370 a month which was £105 more than his income, even after the 50% contribution for rent from his partner. Everyday Lending calculated that its loan would pay off £6,000 of his debt which would reduce his monthly repayments by £545 but the new loan would cost him £305 a month. So, it considered that Mr D was able to afford this loan and Mr D considered that he was saving himself money each month by doing this.

I have received and listened to all the calls between Mr D and the Everyday Lending's representative in November 2022.

gambling

On the initial call the very first question to Mr D from that representative was about the previous application in 2021 which had not been proceeded with, because it was aware that Mr D had said there'd be a lot of gambling transaction history. This demonstrates to me that Everyday Lending was picking up on the previous reasons for declining or not progressing the earlier loan application and asking Mr D about that. Mr D assured them that things were different. Mr D said that there was nothing to show for gambling now apart from say one or two in the past three months. Mr D did say that he had had a couple of payday loans and the representative was not overly concerned especially if Mr D was looking to consolidate those and pay them off. Mr D explained that mainly he was looking to get rid of credit cards and mail order account which was in an arrangement to pay.

Additional information received by me after I had asked Mr D about this, was that he said in actual fact he transferred money for his gambling to his partner's account and used her account to make betting and gambling transactions.

In light of this, I can say with confidence that Everyday Lending would not know of this series of actions by Mr D and would not have any reason to know or suspect that his transfers to his partner were for gambling. Further, I'd say that Everyday Lending would not be expected to know considering Mr D was doing that deliberately.

Although I do not know the reason for doing it that way, the upshot is that anyone or any lending business looking at his bank statements would not see the extent to which he was or may have been using his money for gambling. And so, in this case, I can make a clear finding that gambling – over and above the relatively small amount shown on the bank statements it did have access to - would not have been something that Everyday Lending would have factored into its assessment when considering Mr D for this loan.

I&E assessments

In the first substantial call I have listened to between Everyday Lending and Mr D, he was offered £2,500 over 24 months at £190 a month. He asked about making it a £5,000 loan and was told that would be '*about tops'* meaning it likely would be the highest it could go. He was given an idea that £5,000 over 36 months would have repayments of around £275 a month. Later – just before the face-to-face appointment and after the Everyday Lending representative had reviewed multiple bank account statements from Mr D, he was told on the telephone that he could be given around £3,100 in loan funds – possibly £3,250. Mr D was really wanting £5,000 so that he could clear all his credit cards plus two cards for his partner. So, these calls demonstrate to me that Mr C was wanting as much as the loan company could give him.

Before the branch visit, Mr D was invited to allow Everyday Lending access to his main bank account through Open Banking. And Mr D did that. I have seen copies of those statements seen by Everyday Lending which were from 6 October 2022 to 7 November 2022 for the account he used for most transactions.

Mr D explained various transfers to his partner and taking cash out to pay for things. Mr D provided information to show he'd cleared a loan with a different lender recently.

There was a further conversation about Open Banking access for two other current accounts. The Everyday Lending representative asked for these as he'd seen transfers between accounts. He said he needed these to check that Mr D was not gambling or getting additional payday loans that had not registered on their credit search. The Everyday Lending representative explained that this was precipitated by the fact that Mr D had admitted to the gambling and payday loan use for the 2021 application. Mr D did provide these and still did not explain to Everyday Lending about him transferring money to his partner's account to carry out his additional gambling.

Everyday Lending's files sent to us include his main bank account copy statements for the period 6 October 2022 to 7 November 2022 (as I have said earlier), and a transaction list for Mr D's on-line account with a bank I'll call S which was for the period July 2022 to 4 December 2022. Mr D sent to Everyday Lending a photo of Mr D's phone holding up two on-line banking screens showing very little in another on-line bank account I'll call C. A fourth current account he explained was not used.

As well as Everyday Lending not having had full sight of the other accounts between which transfers were being done regularly, then I also find it unusual that the offer increased from £3,200 to £5,000 almost immediately. And I have listened to a lengthy call Mr D had with our investigator where he explained that when in branch he was persuaded to go higher and take £6,000. I take Mr D's point that when he was in branch it's difficult to resist.

consolidation

It's clear to me from the figures, that not all the debt Mr D had was consolidated into the new loan. I asked Everyday Lending about this. It has explained to me that some creditors will accept cheques from it but these debts being consolidated were ones where it left the onus on Mr D to do this.

On the I&E calculations, I checked with Everyday Lending that its spreadsheet given to us showing which items were calculated into it's I&E as being *'due for consolidation'* and which were not. It agreed with me that:

> *'The telecommunication credit commitments were not being consolidated but were excluded from the creditor costs as they were already accounted for in the Calculated Living Expenses* '

And I asked Everyday Lending if it agreed with me that after consolidation Mr D would have been left with four credit cards, his overdraft (used most months) and the hire purchase costs still to pay? It answered: *'Yes and those costs were included in our affordability calculations'.*

But I disagree. I think that Mr D would still have had money to pay each month on the debts he would not have consolidated into his new Everyday Lending loan. And so, he would not have enough to cover that off. And I add these points as well:

- Mr D has confirmed that the child benefit of around £152 a month - which Everyday Lending had included in the I&E it has sent to us - was received into his partner's account which she then used on the children. And so, I do not agree that the child benefit figures can automatically be used to increase Mr D's income figures. He did not get it.

- The Universal Credit Information Everyday Lending obtained when it was assessing Mr D's income was not evidence I was content with as it had no name on the top to show it was his UC. It was insufficient for me to be satisfied that this was regular income for it to be used by Everyday Lending or for it to be relied on by Everyday Lending as an income for the future. The small screenshot indicated that a figure of £575 a week would be paid from December 2022. Mr D was asked by me about this, and he replied:

  > *'Universal Credit is not guaranteed this can depend on income for both myself and parent and also depend on how often my children attended nursery at this time, there was month where I would not receive UC and some month it would be less that the figure shown above due to attendance at the nursery'*

- I asked Mr D for an explanation surrounding the DWP receipt received into his bank account on 27 October 2022 for £1,489.90. He replied:

  'This payment was a one off payment to support with advance childcare cost at the nursery.'

I have reviewed the credit file data obtained by Everyday Lending and dated October 2022, a copy of which it sent to us. The overview was that Mr D had £4,641 of outstanding loan debt plus £3,081 of revolving credit debt which means accounts like credit cards or store cards. He had no registered County Court Judgments.

Having considered all of this and having reviewed the I&E and consolidation assumptions Everyday Lending had factored in, and for different reasons to that given by the investigator, I uphold the complaint. And my reasons are summarised in the following paragraphs.

I consider that Everyday Lending ought to have recognised that Mr D had gambled in the past, and was still gambling to some extent – it included some of the gambling figures into it's I&E. So, it was aware that Mr D had not ceased completely. Plus, Mr D's credit report showed that he had at least four bank accounts and it had copies of statements, or access to, two of those only. It knew that Mr D was transferring money to more than one of these accounts and the account receiving money I've referred to as S then had further transfers out again and they were not back to his main account. I am not persuaded that Everyday Lending had satisfied itself as to the use of all of those accounts sufficiently.

And referring to the Everyday Lending '*stress list'* it had, then I consider that many of those listed applied to Mr D. The main account was showing signs of stress, with other loans, returned direct debits, use of overdraft, overdraft charges and what appear to be foreign crypto currency transfers which can be a sign of dealings abroad which ought to have been checked again.

In addition to all of this:

- the initial application was for £2,500; and
- the indication to Mr D on the telephone after it had reviewed his bank statements was that Everyday Lending could lend around £3,100/£3,250; and
- that was increased to £5,000 on the phone because he'd successfully paid off a loan in the recent weeks – and further increased to £6,000 in branch; and
- the reliance on Mr D having to pay off the debts to complete the consolidation of loans process to make the new loan affordable was too risky. And I say that because of all the points I've raised above as being of concern, plus the I&E assessment it carried out led to a slim affordability figure. On that slim margin then to rely on the customer, here Mr D, to use the £6,000 to pay off his loans was in my view not a reasonable or reliable approach. Added to which, even if Mr D had carried that out, still he had four credit cards, a HP agreement and his overdraft to service.

Putting things right

As I don't think Everyday Lending ought to have lent the money, I don't think it's fair for it to be able to charge any interest or charges under the credit agreement. Mr D paid off the loan in July 2024. Everyday Lending should:

- Add up the total repayments Mr D has made and deduct these from the total amount of £6,000, and any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement).
- Everyday Lending should remove any adverse information regarding this account from Mr D's credit file.

† HM Revenue & Customs requires Everyday Lending to take off tax from this interest. It must give Mr D a certificate showing how much tax it's taken off if he asks for one.

I've considered whether the relationship between Mr X and Business might have been unfair under s.140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed should be carried out for Mr X results in fair compensation for him in the circumstances of his complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

My final decision

My final decision is that I uphold the complaint and I direct that Everyday Lending Limited does as I have directed in the 'putting things right' part of the decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 4 August 2025.

Rachael Williams
Ombudsman