

## complaint

Ms T and Mr D have complained about a personal loan from Everyday Lending Limited trading as Everyday Loans. They say the loan was unaffordable and that Everyday Loans lent to them irresponsibly.

## background

I issued a provisional decision about this matter in December 2020 which I summarise below.

Ms T and Mr D were given a loan of £3,000 by Everyday Loans in December 2013. Ms T and Mr D were also given a 'secondary loan' of around £378 at the same time. This appears to have been Repayment Protection Insurance (RPI) offering life cover - the cost of which was added to Ms T and Mr D's loan account.

The loan and RPI were due to be repaid in 24 monthly instalments of just over £289.

The adjudicator didn't make any findings about the RPI, but Ms T and Mr D had complained to this Service about both their main loan and the RPI. And Everyday Loans referred to the total amount borrowed, including RPI in its Final Response. So, in coming to my provisional decision, I looked at this complaint as a whole.

I explained the basis on which I would decide the complaint, in particular the checks that Everyday Loans needed to do such as the amount being lent, and the consumer's joint income and expenditure. I said that Everyday Loans needed to take reasonable steps to ensure that it didn't lend to Ms T and Mr D irresponsibly. This means that it had to carry out proportionate checks to satisfy itself that Ms T and Mr D could repay their loan in a sustainable way.

Everyday Loans carried out some checks before lending to Ms T and Mr D. This included asking for details of their income and expenditure and acquiring credit reports.

The adjudicator thought that Everyday Loans ought to have had some concerns about what it found in its checks. And that this should have prompted the lender to look further into Ms T and Mr D's financial circumstances - for example, by requesting bank statements. Everyday Loans says that its checks showed that previous payday loans had all been repaid and the consumers were planning to use some of the loan to pay off an overdraft. Everyday Loans doesn't think the evidence from its checks was concerning enough for it to have requested bank statements.

But I thought the evidence that Everyday Loans had provided strongly suggested that it *did* review bank statements from both Mr D and Ms T at the time. The lender's internal notes dated December 2013 refer to:

*'Rent poof payment seen on b/s' and*

*'Mr b/s best bal -181.94 worst bal -1580.46 act fee/interest and previous unpaid/paid transactions charge on 2 months b/s – seen wages/tax credits and c/b on b/s'.*

Everyday Loans' notes also indicated that bank statements from Ms T were also reviewed.

I hadn't seen what bank statements Everyday Loans appear to have reviewed at the time. Nor had I seen the actual credit reports in full that Everyday Loans acquired at the time.

But from what I had seen, I think it's likely that Everyday Loans did carry out reasonable and proportionate checks when it assessed Ms T's and Mr D's application for a loan.

So, I considered whether Everyday Loans made a fair lending decision at the time, in response to what it found in its checks. On balance, I didn't think it did and I explained why I intended to uphold this complaint.

Ms T and Mr D had provided information about their circumstances at the time, including bank statements from Mr D and a credit report for Ms T. Different checks show different things but I thought it's likely that the information gathered by Everyday Loans during its checks, including the bank statements it seems to have reviewed, would have been broadly similar to the information that Ms T and Mr D had been able to provide to us.

The information I had seen shows that both Ms T and Mr D had been borrowing from several short term and payday lenders, as well as repaying bank loans and a higher purchase agreement, in the months leading up to their application to Everyday Loans.

Everyday Loans say that having looked at the payday loans usage on the bank statements it seemed that all payday loans were settled at the point of sale - although from what I'd seen it seems that Ms T did have some short term and payday loans that were still open when she and Mr D borrowed from Everyday Loans.

But in any event, given the number of loans and the frequency of borrowing, I thought Everyday Loans ought reasonably to have considered whether these consumers were reliant on short term and payday lending to manage their ongoing financial commitments.

Everyday Loans were also aware that part of Ms T and Mr D's income was benefit related, and given their existing credit commitments, they would most likely struggle to repay the loan if either one of them found themselves without work during the loan term. Income from both consumers was required in order for Ms T and Mr D to meet the repayments for their loan. So, I thought the fact that both Ms T and Mr D were taking short term and payday loans should have been relevant to Everyday Loans' decision to lend.

I thought Everyday Loans focussed its calculation of whether the loan was affordable for Ms T and Mr D on a pounds and pence basis. But the lender was required to establish whether the borrowers could *sustainably* meet their loan repayments – not just whether the loan payments were technically affordable on a strict pounds and pence calculation.

The loan payments being 'affordable' on this basis might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. This is because the relevant regulations define sustainable as being without undue difficulties and in particular the customer should be able to make repayments on time, while meeting other reasonable commitments; as well as without having to borrow to meet the repayments. And it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make their repayments sustainably if they're unlikely to be able to make their repayments without borrowing further.

Everyday Loans was providing Ms T and Mr D with an expensive loan, repayable over an extended period and the rules and guidance suggest that the risk of any credit not being

sustainable directly relates to the amount of credit granted and the total charge for credit - relative to the customer's financial situation.

Taking things in the round, I thought Everyday Loans ought reasonably to have recognised from the information it gathered that Ms T and Mr D were having some difficulty managing their financial situation. I thought it ought reasonably to have realised that both Ms T and Mr D were regularly borrowing from short term and payday lenders to keep up with their ongoing financial commitments, and that it was most likely they would need to borrow elsewhere to repay their loan. I thought Everyday Loans ought to have realised that it was unlikely that Ms T and Mr D would have been able to sustainably repay their loan over the extended loan term. So, I thought Everyday Loans ought reasonably to have concluded that it was not appropriate to provide them with this loan.

Ms T and Mr D say they were told by Everyday Loans they were eligible for the loan only if they took the RPI, as they were in the 'high risk' group. I hadn't seen any information from Everyday Loans about why Ms T and Mr D were sold RPI. But as I concluded that Everyday Loans shouldn't have provided the loan, it was reasonable for me to also conclude that there wouldn't have been any loan for the RPI to cover, so the RPI premiums plus interest should be returned to Ms T and Mr D.

I hadn't seen anything which made me think that Everyday Loans acted unfairly or unreasonably towards Ms T and Mr D in some other way. But I thought they had to pay interest and charges on a loan and on RPI that they shouldn't have been given in the first place. I said I was intending to uphold this complaint and directing Everyday Loans to put things right for Ms T and Mr D.

I invited both parties to send me any further comments or evidence. Ms T and Mr D said they didn't have anything further to add.

Everyday Loans provided more information including the bank statements and credit reports it reviewed when it provided the loan to Ms T and Mr D. Everyday Loans says the bank statements provided by Ms T and Mr D show that all pay day loans had been paid off or settled. Everyday Loans also says that it considered Ms T and Mr D's other creditors when it assessed the affordability of the loan and it thinks that using its loan to clear the overdraft on their account would have put them in a better financial position.

## **my findings**

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

I'd like to thank both parties for all the information that has been provided about this matter and for responding to my initial findings.

I have carefully considered the additional information that Everyday Loans has provided, along with all the other information that has been provided by both parties on this matter.

The additional information provided by Everyday Loans has not changed my view of this complaint. I think that Everyday Loans ought reasonably to have realised from the information it had gathered and from its own calculations about Ms T and Mr D's financial situation, that they were having difficulties managing their financial situation and were most

likely overcommitted financially - and that they were likely to struggle to repay their loan sustainably over the extended loan term. Taking everything into account, I don't think it was reasonable for Everyday Loans to have come to the conclusion that its loan would put Ms T and Mr D in a better financial position. Overall, I think Everyday Loans ought reasonably to have concluded that it was not appropriate to provide Ms T and Mr D with this loan.

I have not seen any further information about why Ms T and Mr D were sold RPI. Nor has Everyday Loans commented on my conclusion that as I think that Everyday Loans shouldn't have provided the loan, it is reasonable to also conclude that there wouldn't have been any loan for the RPI to cover, so the RPI premiums plus interest should be returned to Ms T and Mr D.

Given I haven't seen any further evidence or comment that changes my mind about this complaint, I confirm the conclusions that I reached in my provisional decision and I uphold this complaint. Everyday Loans should put things right for Ms T and Mr D.

### **Putting things right**

If Everyday Loans sold any outstanding debt payable in respect of Ms T and Mr D's loan, it should buy it back from the third party, if it's able to do so, and then take the following steps. If Everyday Loans isn't able to buy the debt back then it should liaise with the new debt owner to achieve the results outlined below.

Everyday Loans should:

- a) Remove all interest, fees and charges applied to the loan from the outset, and treat any repayments made by Ms T and Mr D as though they had been repayments of the principal on this loan. If this results in Ms T and Mr D having made overpayments then Everyday Loans should refund these overpayments with 8% simple interest\* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled.
- b) If there is still an outstanding balance then Everyday Loans should try to agree an affordable repayment plan with Ms T and Mr D bearing in mind its obligation to treat them positively and sympathetically in these discussions.
- c) Everyday Loans should also refund to Ms T and Mr D any RPI premiums paid, with 8% simple interest. \*
- d) Everyday Loans should remove any adverse information about the loan from Ms T and Mr D's credit file. If Everyday Loans has sold the outstanding loan it should ask the debt purchaser to do the same. Everyday Loans does not have to remove the outstanding loan from Ms T and Mr D's credit file until it has been repaid, but it should still remove any adverse information recorded about this loan.

\*HMRC requires Everyday Loans to take off tax from this interest and provide Ms T and Mr D with a certificate showing how much tax it's taken off, if they request one.

**my final decision**

For the reasons given above, I uphold this complaint and direct Everyday Lending Limited trading as Everyday Loans to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms T and Mr D to accept or reject my decision before 4 April 2021.

Sharon Parr  
**ombudsman**