

The complaint

Miss P complained that Everyday Lending Limited trading as Everyday Loans lent to her irresponsibly and provided lending that was unaffordable.

What happened

Miss P borrowed from Everyday Loans as follows:

Loan	Date taken	Amount	Term	Monthly repayment	Loan status
1	18/12/2017	£1,000	24 months	£122.67	Paid on 22/08/2018 using loan 2
2	22/08/2018	£2,000	24 months	£223.30	unknown

When Miss P complained to Everyday Loans it didn't uphold her complaint so she brought her complaint to us. One of our adjudicators looked at the complaint and she didn't think Everyday Loans should have provided the loans. Our adjudicator set out directions indicating what Everyday Loans should do to put things right.

Everyday Loans hasn't responded to our adjudicator's view and the deadline for responses has now expired. So, as the complaint hasn't been settled, it comes to me for a decision.

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 of the relevant rules, guidance and good industry practice - on our website. Having thought about everything, I agree with our adjudicator for broadly the same reasons.

The rules don't say what a lender should look at before agreeing to lend. But reasonable and proportionate checks should be carried out. Lenders must work out if a borrower can sustainably afford the loan repayments alongside other reasonable expenses the borrower also has to pay. This should include more than just checking that the loan payments look affordable on a strict pounds and pence calculation – a proportionate check might also require the lender to find out the borrower's credit history and/or take further steps to verify the borrower's overall financial situation.

If reasonable and proportionate checks weren't carried out, I need to consider if a loan would've been approved if the checks had been done. If proportionate checks were done and a loan looks affordable, a lender still needs to think about whether there's any other reason why it would be irresponsible or unfair to lend. For example, if the lender should've

realised that the loan was likely to lead to significant adverse consequences or more money problems for a borrower who is already struggling with debt that can't be repaid in a sustainable way.

When assessing these loan applications, Everyday Loans asked Miss P about her income and expenses – including what she spent on her credit commitments. It also did its own credit checks to understand Miss P's credit history and it has sent me copies of the bank statements it looked at before lending loan 3.

Everyday Loans recorded Miss P's monthly income was around £1,918 when she took out loan 1 and £1,203 around the time of loan 2. Everyday Loans also took into account nationally available statistics when thinking about Miss P's likely spending and included an additional 'buffer' to account for any change in circumstances or one-off additional expenses. Based on this, Everyday Loans said Miss P should've been able to afford the monthly repayments on these loans.

Like our adjudicator, I think the checks Everyday Loans carried out were broadly proportionate. But despite recording information that appeared to show that Miss P had enough spare cash each month to cover the loan monthly repayments, I think Everyday Loans should've realised that it couldn't rely on this information. That's because what Miss P had declared was significantly at odds with what Everyday Loans saw on its credit checks showing Miss P's credit history.

As part of my independent review of this complaint I've thought carefully about what I think a responsible lender should have made of the information Everyday Loans gathered before providing these loans.

Our adjudicator set out in some detail why she felt Everyday Loans should have realised that Miss P was evidently in financial difficulty when she applied for both these loans. Everyday Loans hasn't said it disagrees with anything our adjudicator has said. And having reviewed the information it had available, including up to date credit reports that showed multiple defaults and over-reliance on expensive high cost credit, as well as the information seen on the bank statements Miss P provided, I agree – I think Everyday Loans should not have provided these loans when it was apparent that Miss P was already financially over-stretched. I think the clear indications were that although she was making inroads into some of her problematic debt, the fact she was applying for further credit suggested she needed to borrow elsewhere to be able to do this.

I also don't think Everyday Loans properly took into account that Miss P's monthly income included benefits that were paid based on her circumstances and specifically intended to help cover other costs – not repay additional debt. So, to my mind, the affordability assessment it relied on didn't provide a realistic or fair basis for working out what, if anything, she could in reality, afford to borrow. And I don't think Everyday Loans thought carefully enough about other clear signs of money problems that were apparent, including the fact that Miss P had payment problems with a utility account and she was in an arrangement to pay her council tax. This suggested that she had no surplus cash to pay for extra borrowing.

To sum up, I think Everyday Loans should've realised that Miss P didn't have available income to be able to make the loan repayments in a sustainable way, regardless of what its affordability calculations appeared to show. In reality, she was over-reliant on credit to subsidise her everyday costs and fund her borrowing. So I don't think Everyday Loans should've provided either of these loans.

As Miss P has been further indebted with a high amount of interest on loans that she shouldn't have been provided with she has lost out as a result of what Everyday Loans did wrong. I think Everyday Loans needs to take the following steps to put things right.

Putting things right

Our adjudicator didn't recommend that Everyday Loans should pay any additional redress. Miss P hasn't commented on that and I haven't seen anything which makes me think Everyday Loans acted unfairly towards Miss P in any other way. So I'm not awarding any additional redress.

And I think it is fair and reasonable for Miss P to repay the capital amount that she borrowed, because she had the benefit of that lending. But she has been charged extra for loans that should not have been provided to her.

In line with this Service's approach, Miss P shouldn't repay more than the capital amount she borrowed.

If Everyday Loans sold any outstanding debt it should buy this back if able to do so and then take the following steps.

Otherwise, Everyday Loans should liaise with the new debt owner to achieve the results outlined below and do the following:

- add up the total amount of money Miss P received as a result of having been given these loans. The repayments Miss P made should be deducted from this amount.
- If this results in Miss P having paid more than she received, then any overpayments should be refunded along with 8% simple interest* (calculated from the date the overpayments were made until the date of settlement).
- If any capital balance remains outstanding, then Everyday Loans should attempt to arrange an affordable/suitable payment plan with Miss P bearing in mind the need to treat her positively and sympathetically if she still needs further time to pay what she owes.
- Whilst it's fair that Miss P's credit file is an accurate reflection of her financial history, it's unfair that she should be disadvantaged by decisions to lend loans that it shouldn't have provided. So Everyday Loans should remove any negative information recorded on Miss P's credit file regarding the loans.

*HM Revenue & Customs requires Everyday Loans to deduct tax from this interest. Everyday Loans should give Miss P a certificate showing how much tax has been deducted if she asks for one.

My final decision

I uphold Miss P's complaint and direct Everyday Lending Limited trading as Everyday Loans to take the steps I've set out above to put things right.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 26 May 2022.

Susan Webb
Ombudsman