

## **The complaint**

Mr H complains that Everyday Lending Limited trading as Everyday Loans lent to him irresponsibly.

## **What happened**

Mr H applied for and received a loan of £3,000. It was to be repaid in 24 monthly instalments of £204.24. He says the loan was unaffordable for him and caused financial hardship as a result. He says Everyday should have refused to lend to him.

Everyday looked into his complaint. It explained it had followed its usual processes which included a credit search, obtaining two months bank statements, one month's payslip and an employment check. It said the loan was drawn to clear Mr H's credit cards and pay a solicitor's fee. Everyday said it believed the loan was affordable at the time and noted Mr H had repaid the loan in full nine months later. It rejected his complaint.

Mr H was unhappy with Everyday's response, so he referred his complaint to our service. One of our investigators looked into it. He felt Everyday ought to have identified from the checks it did, that the loan was unsustainable for Mr H. For example, he noted the two months bank statements Mr H had provided as part of his application, showed he'd taken three payday loans in that time. Our investigator said what it should do to put matters right.

Mr H accepted what our investigator said but Everyday didn't. It said, in summary, that the loan was taken to consolidate Mr H's payday loans which would have assisted him with his budget. It pointed out that the bank statements didn't show any returned direct debits or fees and he had no defaults or County Court Judgements (CCJ's) on his credit file. As there was no agreement, the complaint has been passed 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 approach to complaints about high cost credit on our website – including the key relevant rules, guidance, good industry practice and law. I've considered this approach when deciding this complaint.

Everyday needed to carry out reasonable and proportionate checks to ensure that it didn't lend to Mr H irresponsibly. I think there are key questions I need to consider to decide what is fair and reasonable in the circumstances of this complaint:

- Did Everyday carry out reasonable and proportionate checks to satisfy itself that Mr H was in a position to sustainably repay the loan?
  - If not, what would reasonable and proportionate checks have shown at the time?
- Did Everyday make a fair lending decision?
- Did Everyday act unfairly or unreasonably towards Mr H in some other way?

Everyday had to carry out reasonable and proportionate checks to satisfy itself that Mr H would be able to repay the loan sustainably. It's not about Everyday assessing the likelihood of it being repaid, but it had to consider the impact of the loan repayments on him. There is no set list of checks that it had to do, but it could take into account several different things such as the amount and length of the loan, the amount of the monthly repayments and the overall circumstances of the borrower.

Did Everyday carry out reasonable and proportionate checks to satisfy itself that Mr H was in a position to sustainably repay the loan?

Everyday appears to have asked Mr H for lots of information to enable it to complete a good assessment of his financial situation. As mentioned earlier, this included a payslip, bank statements, credit reference and employment checks. I think this information is sufficient for Everyday to have carried out the reasonable and proportionate checks it's obliged to do.

Did Everyday make a fair lending decision?

Having obtained information sufficient for a reasonable and proportionate check, Everyday had to consider what it found as a result. In this instance, I can see inconsistencies between some of the information considered by Everyday and that contained in the paperwork.

Mr H's marital status is shown on the application as "S" – presumably single. But the application has been assessed using a *joint* income of £2,667. The two payslips Mr H has provided show an income of £1,910 and £2,145 – significantly lower than the figure relied on by Everyday. The bank statement provided only shows the higher of the two payments, but also shows three payday loans referred to by our investigator, totalling £1,500.

To calculate Mr H's expenditure, Everyday used a formula of 35% of his net monthly income as his personal expenditure. It says this was widely regarded as a national average. But it had Mr H's expenditure available to it from his bank statements so it could have made more precise calculations. Furthermore, I'm not persuaded that using a national average is reasonable here. Everyday specialises in lending to people who have impaired credit ratings and, in my experience, are unlikely to have expenditure in line with averages.

Everyday said in its final response that the purpose of the loan was to repay credit cards and a solicitor's fee. His credit file shows he had £2,421 outstanding on his credit cards, so this would make sense. But in its response to our investigator's opinion of this complaint, it said the loan was to repay the payday loans. It can't have been both. I've asked Everyday to clarify the purpose, but it hasn't responded. I've therefore assumed its first answer – the credit cards – was correct.

Mr H had other credit outstanding too. He had a guarantor loan, a mail order account and a hire purchase agreement. Payments to those come to just over £600 per month. With the £204 payment required to this new loan, his credit repayments would be in excess of £800 per month. On top of that, Mr H had taken the payday loans I've already referred to which needed to be repaid.

As part of its file, Everyday has provided a loan checklist which was completed at the time. I can see that whoever completed it wrote "*why payday loans and balances*" which shows the loans were noted. But there is no answer to the question.

So it seems to me that while Everyday gathered the information it required to make a reasonable and proportionate check, it didn't properly consider the information it received. I can't see how Everyday thought the loan would be repayable on a sustainable basis. I think it ought to have identified that Mr H was struggling financially – hence the payday

loans so recently taken – and concluded that his situation was such that this new loan could not be repaid sustainably. I don't think it reached a fair decision to lend.

Did Everyday act unfairly or unreasonably towards Mr H in some other way?

I've carefully considered all the evidence provided by each party to this complaint. Having done so, I don't think Everyday has acted unfairly or unreasonably towards Mr H in some other way. But I do think Everyday should have refused to lend to Mr H, so I am upholding his complaint about the loan.

**Putting things right**

When I find that a business has done something wrong, I'd normally direct that business to put the complainant in the position they would be in now if the mistake it made hadn't happened, as far as is reasonably practical. In this case, that would mean putting Mr H in the position he would be in now if he hadn't been given the loan. But Mr H was given the loan, used the money and has already repaid it including interest due under the agreement.

So, I think Everyday should:

- Calculate the total amount Mr H received from Everyday and deduct from that figure the repayments he's made to each loan.
  - If this results in Mr H having repaid more than he received, any overpayments should be refunded to him. Interest at a rate of 8% simple per year should be added to any overpayments from the date they were made until the date of settlement\*.
- Remove any negative information recorded on Mr H's credit file regarding this loan.

\*If Everyday considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr H how much it's taken off. It should also give him a tax deduction certificate if he asks for one, so he can reclaim the tax from HMRC if appropriate.

**My final decision**

My final decision is that I uphold this complaint. Everyday Lending Limited trading as Everyday Loans should put things right for Mr H as I've set out above. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 31 July 2023.

Richard Hale  
**Ombudsman**