

The complaint

Ms H complains that AvantCredit of UK, LLC (Avant), lent to her irresponsibly.

What happened

Ms H was approved for a loan for £2,500 in November 2015, and she was due to make 48 monthly payments at over £139 each. Ms H did repay it in January 2017.

Ms H says that she needed the money to consolidate another loan and needed to take a loan to repay this one. Ms H has not sent to us any evidence of this. Ms H told Avant that she did not earn a salary and received benefits of around £194 a week plus another benefit payment of about £137 a month. That came to about £914 a month and Avant has told us it used that figure when calculating affordability.

Ms H gave to Avant copies of a bank statement for the period 13 October to 12 November 2015, which showed transactions just before Avant approved the loan. It also searched her credit history and discovered that she had about £1,700 of existing debt (excluding mortgage debt).

One of our adjudicators thought that Avant should have assessed her overall situation better. She thought that Avant knew Ms H had outstanding debt with creditors of £1,764 and was just within her credit limits. *'Whilst this loan may have been used to consolidate some of this debt, the amount being lent was much greater and would in fact increase her indebtedness overall.'* Our adjudicator thought that Avant should put things right for Ms H.

Avant disagreed and said that *'Ms H's income was verified as £914.44 and the outgoings stated were £500. After paying instalment amount of £139.78 Ms H would have £274.66 remaining for other expenses. The customer's credit file shows no defaults and the total amount funded if needed could have consolidated the balances.'*

The complaint remained unresolved and was passed to me to decide.

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.

Taking into account 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 Avant complete reasonable and proportionate checks to satisfy itself that Ms H would be able to repay the loan in a sustainable way? If not, would those checks have shown that Ms H would have been able to do so?

- Did Avant act unfairly or unreasonably in some other way?

The rules and regulations in place required Avant to carry out a reasonable and proportionate assessment of Ms H's ability to make the repayments under this agreement. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower-focused" – so Avant 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 Ms H undue difficulty or significant adverse consequences. That means she 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 Avant to simply think about the likelihood of it getting its money back - it had to consider the impact of the loan repayments on Ms H. 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 a number of factors including – but not limited to – the particular circumstances of the consumer (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 think that a reasonable and proportionate check ought generally to have been *more* thorough:

- the *lower* a consumer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

I've carefully considered all the arguments, evidence and information provided in this context and what this all means for Ms H's complaint.

I appreciate that Avant obtained and reviewed a set of bank statements obtained from Ms H before lending. I think Avant's checks were proportionate but it didn't react appropriately to the information it received. And before coming to that conclusion I have carefully thought about the evidence I have received from both parties.

Before lending, Avant verified her income using the bank account statement and has told us that it calculated her outgoings to be £500. However, this expenditure figure has not been itemised and when I have reviewed that same month for the same bank account for Ms H, I can see she spent more than that. And I think that Avant would have seen that her expenditure added up to more than £500 and yet I've seen no evidence it asked her about the transactions to assist it in identifying her outgoings.

Ms H was on a low income and had no salary and so over the 48 month term the income was likely to be static at the £914 it did appear to be each month. As the bank account transactions demonstrate that Ms H was not managing to stay within her £200 overdraft facility and regularly was over it, then I think that she was only just managing to meet her current commitments. Not all of them were to creditors and the other outgoings were never verified by Avant before Ms H embarked on a four year term for a high cost credit loan.

Avant has said that she '*could have consolidated the balances*' using the capital sum of £2,500 from Avant, but I've seen no evidence that it either asked her about this or sought to assist her with that consolidation. And so, I do not think it was clear that Ms H's plan was to use the loan capital to do that and Avant did not seem to be clear either.

I think that Avant did not do enough to know that Ms H was able to afford this loan for the four year period she was going to be committed to. So, I uphold her complaint.

I've reviewed the information I have to see if Avant was unfair towards Ms H in any other way and I have seen no evidence of that.

Putting things right

I think Avant should:

- remove all interest, fees and charges applied to the loan;
- treat any payments made by Ms H as payments towards the capital sum of £2,500;
- if Ms H has paid more than the capital, then any overpayments should be refunded to her with interest* of 8% simple a year from the date they were paid to the date of settlement;
- remove any negative information about the loan from Ms H's credit file.

*HM Revenue & Customs requires Avant to take off tax from this interest. Avant must give Ms H a certificate showing how much tax it's taken off if she asks for one.

My final decision

My decision is that I uphold Ms H's complaint and direct that AvantCredit of UK, LLC does as I have directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 23 March 2022.

Rachael Williams
Ombudsman