

The complaint

Mrs G complains that AvantCredit of UK, LLC provided her with a loan she couldn't afford to repay.

What happened

AvantCredit provided Mrs G with a loan on 3 April 2016. It was for £2,600, repayable at the monthly rate of just under £147. The loan was to be repaid over 36 months.

Mrs G paid the instalments until July 2016, then paid instalments of half the sums due until December 2016. She paid three full instalments until March 2017, then paid instalments of around £46 until September 2017. She then made nominal monthly payments of £1 until September 2019, after which time she made some full payments and some lower payments. She made her complaint to us in January 2021. She said the loan was unaffordable to her at the time.

AvantCredit took into account the information Mrs G provided in her loan application, and independently verified her income. It also carried out a credit check and an affordability assessment. It said the purpose of the loan was debt consolidation.

Our adjudicator asked AvantCredit to provide details of the loan accounts and credit cards Mrs G was repaying, but it explained it didn't have those details.

Our adjudicator said that, as AvantCredit had been unable to satisfy itself that Mrs G had paid off the various debts, she had to assume that this hadn't happened. In which case Mrs G's credit commitments against income would have been very high (over 50%) and the loan couldn't be said to be affordable based on the checks AvantCredit had carried out. She proposed that AvantCredit repay all interest and other charges on the loan.

AvantCredit disagreed that Mrs G wouldn't have used the loan to consolidate her existing debts. It identified three debts she could have repaid, partly or in full, which would then have reduced her credit commitments substantially.

The matter has been passed to me for further consideration.

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 AvantCredit complete reasonable and proportionate checks to satisfy itself that

Mrs G would be able to repay the loan in a sustainable way?

- If not, would those checks have shown that Mrs G would have been able to do so?

The rules and regulations in place required AvantCredit to carry out a reasonable and proportionate assessment of Mrs G'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 AvantCredit 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 Mrs G 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 she had a contractual or statutory obligation to make and without the repayments having a significant adverse impact on her financial situation.

In other words, it wasn't enough for AvantCredit to simply think about the likelihood of it getting its money back - it had to consider the impact of the loan repayments on Mrs G. 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 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).

This loan was for 36 months and the instalments required a substantial commitment from Mrs G. So I think AvantCredit needed to carry out a thorough assessment. It didn't obtain bank statements. The rules don't require it to, but its checks showed that Mrs A was liable for a very high amount of credit commitments, of about 41% of her income. Even if AvantCredit assumed that she was going to pay off some of her credit card debts (at the time they were around £4,400) it only allowed a payment of £32 per month off the remaining credit card debt. Additionally she still had another loan repayment of £220 per month which she wouldn't have been able to repay from the AvantCredit loan.

More importantly AvantCredit paid the capital sum of the loan directly to Mrs G without satisfying itself that she was paying off some of her debts. The instalment for the new loan would have brought those monthly commitments to over 50% of her income. I think it likely that that would have been unmanageable. Together with the information it obtained from its credit checks and its affordability assessment, I don't think AvantCredit made a fair lending

decision. And it's perhaps not surprising that Mrs G soon got into difficulties over repaying the loan.

Putting things right

It's fair and reasonable that Mrs G should pay the capital sum of the loan back, as she has had the benefit of it. But I think AvantCredit should repay all interest and charges from the amount paid under the loan agreement.

AvantCredit should:

- Remove all interest, fees and charges applied to the loan.
- Treat any payments made by Mrs G as payments towards the capital amount of £2,600.
- If Mrs G has paid more than the capital, refund any overpayments to her with 8%* simple interest from the date they were paid to the date of settlement.
- Remove any adverse information about the loan from Mrs G's credit file.

If there's still an outstanding balance, AvantCredit should come to a reasonable repayment plan with Mrs G.

*HM Revenue & Customs requires AvantCredit to deduct tax from this interest. It should give Mrs G a certificate showing how much tax it's deducted if she asks for one.

My final decision

I uphold the complaint and require AvantCredit of UK, LLC to provide the remedy set out under "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 6 April 2022.

Ray Lawley
Ombudsman