

## **The complaint**

Mrs R has complained that AvantCredit of UK, LLC trading as AvantCredit was irresponsible in lending to her.

## **What happened**

In 2017 AvantCredit provided Mrs R with a loan of £6,600 repayable over 36 months with a monthly repayment of £251.15. The loan has since been repaid.

Mrs R complained that the loan was unaffordable. AvantCredit looked into her complaint. It said it had carried out proper checks and it thought the loan was affordable.

Mrs R referred her complaint to us. Our adjudicator upheld the complaint. She didn't think AvantCredit had carried out proper checks.

As AvantCredit didn't agree, the matter has been referred to me.

## **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 carefully thought about everything, I think that there are two overarching questions that I need to answer in order to fairly and reasonably decide Mrs R's complaint. These two questions are:

1. Did AvantCredit complete reasonable and proportionate checks to satisfy itself that Mrs R would be able to repay the loans without experiencing significant adverse consequences?
  - If so, did it make a fair lending decision?
  - If not, would those checks have shown that Mrs R would've been able to do so?
2. Did AvantCredit act unfairly or unreasonably in some other way?

The rules and regulations in place required AvantCredit to carry out a reasonable and proportionate assessment of Mrs R'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 R 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 R. 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.

In light of this, 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 of the arguments, evidence and information provided in this context and what this all means for Mrs R's complaint.

AvantCredit asked for information about Mrs R's income and expenses. Mrs R said her net monthly income was £2,886 and her expenses came to £1,700. AvantCredit obtained a credit report. That revealed that Mrs R had 17 active credit accounts. She had a very high level of indebtedness on credit cards, of over £16,868. She also owed £15,062 on unsecured loans. She was paying over half her net monthly income on her credit commitments (excluding her mortgage).

In my opinion the credit search ought to have raised concerns to AvantCredit. The fact that she was already committed to spending so much of her monthly income on credit repayments could have been seen as an indication that Mrs R was having problems managing her finances. I think overall based on what it had initially gathered, it should have looked to carry out a complete review of Mrs R's finances to assure itself that she could repay the loan in a sustainable way, especially as the loan term was for 36 months.

Mrs R has provided us with some bank statements for the period just before taking out this loan. I'm not suggesting here that these are the checks that AvantCredit should necessarily have done. But I think looking at these might have given a good indication of Mrs R's financial situation around the time she applied for this loan.

They show that for the month of May 2017 Mrs R spent just under half her net income on gambling transactions. If AvantCredit had carried out proportionate checks, I think it is more likely than not that it would have uncovered this and then not lent to Mrs R. So I'm not persuaded that AvantCredit acted fairly in lending to Mrs R as it was likely that giving her more credit would simply make her situation worse.

The fact that Mrs R repaid the loan doesn't mean that she was able to do so sustainably or that this is a reason for me not to uphold her complaint that the loan was unaffordable.

I've also thought about whether AvantCredit acted unfairly in some other way and I haven't seen any evidence that it did.

### **Putting things right**

As I have concluded AvantCredit shouldn't have provided the loan, it should:

- refund all interest, fees and charges applied to the loan;
- pay interest\* of 8% simple a year on any refunded interest, fees and charges from the date they were paid (if they were) to the date of settlement; and
- remove any negative information about the loan from Mrs R's credit file.

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

### **My final decision**

For the reasons given above, I uphold Mrs R's complaint and require AvantCredit Limited to put things right for Mrs R as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 15 April 2022.

Elizabeth Grant  
**Ombudsman**