

## **The complaint**

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

## **What happened**

In January 2016 AvantCredit provided Miss O with a loan of £1,500. The loan was repayable over 36 months and the monthly repayments were £66.21.

Miss O said the purpose of the loan was to consolidate her debts. The loan was repaid in May 2017.

In June 2017 Miss O took out another loan from AvantCredit. She borrowed £2,526.32 repayable over 36 months and the monthly repayments were £115.74. This loan is still outstanding.

Miss O complained that AvantCredit hadn't properly checked she could afford the loans. Our adjudicator upheld Miss O's complaint. He thought AvantCredit was wrong to have offered the loans to Miss O.

As AvantCredit didn't agree, the complaint has been passed 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.

Taking into account the relevant rules, guidance and good industry practice, I think the overarching 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 Miss O would be able to repay the loan in a sustainable way?
- If not, would those checks have shown that Miss O would have been able to do so?
- 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 Miss O's ability to make the repayments under the loan 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 Miss O 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 Miss O. 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 Miss O's complaint.

### *Loan 1*

Miss O was entering into a significant financial commitment with AvantCredit for the next three years. Before granting this loan, AvantCredit verified Miss O's income figure using a standard industry tool. It found her average net monthly income was £789. Miss O also said her expenses were £643 a month. It's not clear to me how this figure was reached as I note from the credit search that her existing monthly credit commitments came to about £450 which was over half her net income.

AvantCredit also carried out a credit search. That showed Miss O owed a total of £9,842. The balance on five of her credit accounts had gone up in the last three months and she'd failed to keep up repayments on one account suggesting she'd had some financial difficulties. I think this ought to have caused AvantCredit some concern as it appeared Miss O's finances might be strained and that any additional lending might not be sustainable. So, I'd have expected AvantCredit to gather some more detailed information about Miss O's finances before it agreed to lend to her, for example, by asking for bank statements or similar.

Although I don't think the checks AvantCredit did before agreeing the loan were sufficient, that isn't a good enough reason for me to uphold Miss O's complaint. In order for Miss O's complaint to succeed, I need to be able to say that proportionate checks would have shown AvantCredit that there was a real risk Miss O wouldn't be able to afford the repayments sustainably.

I've looked at what I think proportionate checks would have shown.

Miss O has sent us some bank statements including those for the month before she took out the loan. It shows that in December 2016 Miss O spent over £600 being over three quarters of her income on various credit commitments and about £380 on household bills excluding rent. I think if AvantCredit had carried out proportionate checks it would have realised that Miss O had become over-reliant on credit she couldn't afford and she was unlikely to be able to sustainably afford the new loan repayment over a three year period. I don't think AvantCredit treated Miss O fairly in approving this loan.

I appreciate that the purpose of the loan was said to be for debt consolidation. Miss O could have used the £1,500 loan to repay some of her short-term loans which in turn could have reduced her credit commitments going forward.

However, AvantCredit didn't pay off any of these loans directly. So it couldn't be sure it wasn't putting her in a worse position by increasing her overall indebtedness. The stated purpose of debt consolidation isn't enough in itself to make me think that the loan was fairly provided or that it proved helpful in the event to Miss O.

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

So, for the reasons set out above, I don't think AvantCredit should have provided Miss O with this loan.

## *Loan 2*

By the time she applied for this loan AvantCredit's checks showed that Miss O's average net monthly income was £1,516. According to the credit search her existing monthly credit commitments came to about £737.41 which was almost half her income and the total amount she owed had risen sharply. Again I think this ought to have caused AvantCredit some concern that any additional lending might not be sustainable. So, I'd have expected AvantCredit to gather some more detailed information about Miss O's finances before it agreed to lend to her.

I've looked at Miss O's bank statements for the period before she took out this loan. It shows that in the previous two months Miss O's salary had been less than £1,000. In addition, in May 2017 Miss O had taken out loans of £5,000 and £1,500 with other lenders. I think if AvantCredit had carried out proportionate checks it would have been concerned that Miss O had become increasingly reliant on credit she couldn't afford and she was unlikely to be able to sustainably afford the new loan repayment over a three year period. I don't think AvantCredit treated Miss O fairly in approving this loan.

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**

I think it is fair and reasonable for Miss O to repay the principal amount that she borrowed, because she's had the benefit of that lending. But as I have concluded AvantCredit shouldn't have provided the loans, it should look to remove the interest and fees from the amounts due under the loan agreements. If AvantCredit has sold the outstanding debt, it should buy it back if it is able to do so and then take the following steps. If it is not able to buy the debt, it should liaise with the new debt owner to achieve the results outlined below.

AvantCredit should:

- remove all interest, fees and charges applied to the loans;
- treat any payments made by Miss O as payments towards the capital amount;
- If Miss O has paid more than the capital then any overpayments should be refunded to her with 8%\* simple interest from the date they were paid to the date of settlement,
- But if there's still an outstanding balance, AvantCredit should come to a reasonable repayment plan with Miss O; and
- remove any negative information about the loans from Miss O's credit file.

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

### **My final decision**

For the reasons given above, I uphold Miss O's complaint and require AvantCredit of UK, LLC to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss O to accept or reject my decision before 17 May 2022.

Elizabeth Grant  
**Ombudsman**