

Complaint

Miss T has complained about loans AvantCredit of UK, LLC ("Avant Credit") provided to her. She says the loans were unaffordable.

Background

Avant Credit provided Miss T with an initial loan for £2,300.00 in September 2015. This loan was due to be repaid in 36 monthly instalments of around £136. Miss T repaid this loan early and in November 2015, Avant Credit provided Miss T with a second loan for £2,900.00. This loan was due to be repaid in 48 monthly instalments of around £146.

One of our adjudicators reviewed Miss T's complaint and he thought Avant Credit shouldn't have provided Miss T with either of these loans. So he thought that Miss T's complaint should be upheld.

Avant Credit agreed on loan 1 but disagreed with our adjudicator's findings on loan 2, so the case was passed to an ombudsman for a final decision.

As the parties are in agreement with our adjudicator's findings on loan 1 this decision is only looking at whether Avant Credit acted fairly and reasonably when providing Miss T with loan 2.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

We've explained how we handle complaints about unaffordable and irresponsible lending on our website. And I've used this approach to help me decide Miss T's complaint. Having carefully considered everything I've decided to uphold Miss T's complaint. I'll explain why in a little more detail.

Avant Credit needed to make sure it didn't lend irresponsibly. In practice, what this means is Avant Credit needed to carry out proportionate checks to be able to understand whether Miss T could afford to repay any credit it provided.

Our website sets out what we typically think about when deciding whether a lender's checks were proportionate. Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender to be able to show that it didn't continue to lend to a customer irresponsibly.

Avant Credit may argue that the relatively low monthly payments meant that a relatively light touch assessment would have been proportionate here. But I'm mindful that this was Miss T's second loan with Avant Credit within a short period. And the information Avant Credit has itself provided suggests that Miss T didn't have the disposable income required to repay this loan. I don't understand how Avant Credit can accept that this was a problem for loan 1 but not loan 2 when Miss T was now expected to make a higher monthly payment.

Furthermore, while Avant Credit says the purpose of this loan was recorded as debt consolidation, there is no indication of which debts Miss T was going to consolidate. Finally the credit check Avant Credit carried out also clearly demonstrated that Miss T had a history of high-cost and other payday lending.

So I'm persuaded by what Miss T has said about already being in a difficult financial position at the time. And while it's possible her credit file reflected her choices rather than because she was struggling, I'd add that my experience of these types of cases suggest this is unlikely, the results of Avant Credit's affordability assessment and the suggestion Miss T's disposable income wasn't enough to make the loan payments to loan 2 persuade me this wasn't the case.

As this is the case, I do think that Miss T's existing financial position meant that she was unlikely to be able to afford the payments to loan 2, without undue difficulty or borrowing further. And I'm satisfied that reasonable and proportionate checks would more like than not have shown Avant Credit that it shouldn't have provided this loan to Miss T.

As Avant Credit provided Miss T with this loan, notwithstanding this, I'm satisfied it failed to act fairly and reasonably towards her.

Miss T has ended up paying interest, fees and charges on a loan she shouldn't have been provided with. So I'm satisfied that Miss T lost out because of what Avant Credit did wrong and that it should put things right.

Fair compensation – what Avant Credit needs to do to put things right for Miss T

Having thought about everything, Avant Credit should put things right for Miss T by:

- Refunding all interest, fees and charges Miss T paid on loan 2 (as well as loan 1 which it has already agreed to do);
- adding interest at 8% per year simple on the refunded payments from the date they were made by Miss T to the date of settlement†
- removing all adverse information it recorded on Miss T's credit file as a result of this loan.

† HM Revenue & Customs requires Avant Credit to take off tax from this interest. Avant Credit must give Miss T a certificate showing how much tax it has taken off if she asks for one.

My final decision

For the reasons I've explained, I'm upholding Miss T's complaint. AvantCredit of UK, LLC should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 9 May 2022.

Jeshen Narayanan
Ombudsman