

## **The complaint**

Miss G complains through her representative that AvantCredit of UK, LLC irresponsibly provided her with a high cost loan that she couldn't afford to repay.

## **What happened**

AvantCredit provided Miss G with a loan for £1,000 on 6 October 2015 repayable over 36 months at the rate of £48.63 a month. She paid off the loan in time by September 2018. She later complained to AvantCredit about irresponsible lending.

AvantCredit said it carried out all necessary checks, including obtaining a credit report, verifying Miss G's income, and considering one month's bank statement. It assessed that the loan was affordable.

On referral to the Financial Ombudsman Service our adjudicator said that after taking account of her expenses and credit commitments, Miss G would have been left with a negative disposable income. So she didn't believe the loan was affordable.

AvantCredit disagreed and asked for an ombudsman's decision.

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 Miss G would be able to repay the loans in a sustainable way?
- If not, would those checks have shown that Miss 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 Miss G's ability to make the repayments under the agreements. 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 AvantCredit had to ensure that making the repayments on the loan wouldn't cause Miss 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 Miss 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 such a 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).

AvantCredit hasn't provided a full copy of the credit report that it obtained at the time of Miss G's loan application. I have seen a credit report obtained later (in 2018) but I have decided to follow the figures for income and the breakdown of Miss G's credit commitments set out by AvantCredit in its response to us. I think to be fair, I should also use AvantCredit's calculations.

AvantCredit verified that Miss G had an income of £1,700. Miss G declared that she had outgoings of £1,330. Whilst AvantCredit has said that it expected that figure to include some if not all of her credit expenses, from the calculation set out in its file that can't be the case. I set out the figures here:

Mortgage/rent £700

Council Tax    £135

Utilities        £ 65

Auto            £ 80

Other            £350

Total            £1,330

Since this breakdown doesn't set out any figure for general living expenses like food, I think it fair to assume that the "Other" £350 figure is intended to cover this.

As for credit commitments AvantCredit says that after taking its loan Miss G would have a new monthly credit commitment payment at an estimated £727.95, which is about 42% of Miss G's income. I think that figure was high and an indicator that Miss G couldn't afford the new loan.

Having established that the monthly expense figure of £1,330 is to be added to the credit commitments figure, this amounts to over £2,050, which gives a negative disposable income of over £300. AvantCredit estimates that Miss G had a disposable monthly income of £321, but that doesn't take account of any of her credit commitments. Whilst Miss G could have reduced her commitments by paying off some of these with the loan, I've seen no indication that AvantCredit took that into account or that it sought to arrange payment of any other loans before releasing the loan proceeds to her.

So I conclude that this loan was clearly unaffordable to Miss G. I don't think AvantCredit made a fair lending decision.

### **Putting things right**

Miss G has had the capital payment in respect of the loans, so it's fair that she should repay this. So far as the loan is concerned, I think AvantCredit should refund all interest and charges as follows:

- Remove all interest, fees and charges applied to the loan.
- Treat any payments made by Miss G as payments towards the capital amount.
- If Miss 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 Miss G's credit file.

\*HM Revenue & Customs requires AvantCredit to deduct tax from this interest. It should give Miss 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 Miss G to accept or reject my decision before 9 December 2022.

Ray Lawley  
**Ombudsman**