

## **The complaint**

Mrs T complains through her representative that AvantCredit of UK, LLC lent her money on a high cost loan which she was unable to afford to repay.

## **What happened**

AvantCredit provided Mrs T with a loan on 31 August 2015. This was for £2,000 repayable over 24 months at the rate of around £143 a month. She complained through her representative to AvantCredit that the loan was unaffordable. She said that paying the loan had put her into more financial difficulty. I believe the loan was repaid by September 2017, without any missed payments.

AvantCredit said that it had carried out all necessary checks, had validated Mrs T's income and assessed her outgoings. It also carried out a credit check and it assessed that the loan was affordable for Mrs T.

Our adjudicator said that Mrs T's combined monthly consumer credit repayment represented a significant proportion of her income. In these circumstances, there was a significant risk that she wouldn't have been able to meet her existing commitments without having to borrow again. So, he thought it unlikely Mrs T would've been able to sustainably meet her repayments for the loan.

AvantCredit objected, on the basis that loan was issued to Mrs T more than six years before she made her complaint about it. So it believed it was out of time for us to look at it.

I issued a decision on our jurisdiction to consider the complaint. I decided that the complaint was in time within the rules. I invited AvantCredit, if it wanted, to comment further in respect of the adjudicator's view on the merits of the matter. It hasn't done so.

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

Whilst AvantCredit has supplied a credit report it is a summary rather than a detailed report of each loan account. From this it can be seen that Mrs T had recently defaulted on a credit account and had a total of £2,228 in debt management over the preceding 12 months. As the loan was for home improvements, rather than consolidation of any loans her credit commitments remained the same, but with the addition of the new loan. Her income was assessed at £1,500, meaning that with the new loan instalment her credit commitments would've amounted to just over 31% of her income. This was high, and an indication that the loan might not be affordable.

Mrs T's regular outgoings were assessed at around £650 a month, but with the length of time since the loan was issued any detailed further assessment of that hasn't been possible. Taking that figure at face value, her monthly disposable income would have been around £380. But it's not just the pounds and pence figures we look at in terms of affordability. Mrs T had clearly had trouble in keeping up with her credit commitments. So I think it unlikely that adding the new loan to those commitments, raising her credit to income ratio from 22% to over 31% was affordable for her.

So I don't think that AvantCredit made a fair lending decision.

## **Putting things right**

Mrs T has had the capital payment in respect of the loan, 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 Mrs T as payments towards the capital amount of £2,000.
- If Mrs T 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 where appropriate about the loan from Mrs T's credit file.

\*HM Revenue & Customs requires AvantCredit to deduct tax from this interest. It should give Mrs T 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 T to accept or reject my decision before 29 July 2022.

Ray Lawley  
**Ombudsman**