

complaint

Mrs L complains that AvantCredit of UK, LLC ("AvantCredit) ought not to have lent to her.

our initial conclusions

Our adjudicator didn't recommend upholding Mrs L's complaint. She didn't think AvantCredit had acted incorrectly in lending to Mrs L.

Mrs L rejected this recommendation. In summary, she said her lending history with other companies should've prompted AvantCredit to realise she'd struggle to repay it.

Further she suggested that she was living well beyond her means because of her gambling addiction. She thought this all should've been obvious to AvantCredit from the bank statement it had seen for the month before she took out the loan with it.

She explained she'd not been behaving rationally due to her gambling addiction, combined with her mental health issue at the time and a stressful life event.

She pointed out she'd not missed any payments to it or to any of her other lenders. But this was because she lived extremely frugally to the point of experiencing hardship, in order to prioritise her repayments. She'd also borrowed money from a relative who she'd now paid back in full using money she'd got from the sale of a house.

Mrs L suggested she felt she'd been penalised for doing the right thing.

Mrs L asked that her complaint be sent to an ombudsman.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I regretted to hear about the very tough time Mrs L has been going through in recent years. And I think she has shown a great deal of fortitude, determination and responsibility in how she has chosen to deal with this situation. That said, although I sympathise with her predicament, I don't agree I have any proper basis to ask AvantCredit to take any further action. Please let me explain why I've come to this conclusion.

Mrs L and AvantCredit don't always agree about what happened here. Where that's the case, I have to decide which version of events I find the most likely.

Mrs L is right to say that before a business lends to a consumer it has to check out whether their potential customer can afford the borrowing. They also have to look out for signs that the potential customer is a vulnerable consumer. Mrs L says AvantCredit failed on both counts.

I can see that AvantCredit looked at Mrs L's financial situation before it lent to her. Its records show it looked at what money she had coming in and what her current financial commitments were. It looked at what other borrowing she had and how she'd managed those repayments. And, on the face of it, she'd got enough money each month to make the repayments to it and her repayment history with other lenders was good.

She's recently told us she took out several loans in quick succession and she thinks this was another warning sign that AvantCredit missed. AvantCredit's records show that she told it she wanted to borrow from it to consolidate her debts, which I think was a reasonable explanation in the circumstances. It was entitled to rely on what she said unless what she said was so patently unlikely that it should've dug further.

Further Mrs L's perfect repayment history with AvantCredit didn't suggest that she couldn't afford to repay it. I know she tells us she only managed by prioritising her repayments and by borrowing from a family member who, she's since, paid back in full. But her repayment history is not what I'd expect from someone who didn't have the means to repay. Rather it's the repayment history of someone who took their debts seriously and arranged their life, with a great deal of discipline, to repay their debts.

I do agree that if she'd obviously been gambling in an unsustainable manner then AvantCredit should've taken that into account. But, although she did have some particular patterns in her discretionary spending, I don't think there was enough there for it to know that she was spending her money on gambling. The recipients' names didn't give this away. Neither do I think it could reasonably have known (based on the information it had available to it) that her gambling was out of control. And she's not told us that she made AvantCredit aware that she had a mental illness at the time, neither does it seem she told it about her life event, so I don't see how it could be expected to take have known about these matters.

For all of these reasons I don't think it's appropriate to ask AvantCredit to take any further action.

my final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 23 October 2017.

Joyce Gordon
ombudsman