

The complaint

Mr V has complained that AvantCredit of UK, LLC was irresponsible in lending to him.

What happened

In 2015 AvantCredit provided Mr V with a loan of £2,900 repayable over 48 months with a monthly repayment of £144.14. He said the purpose of the loan was debt consolidation. The loan has since been repaid.

Mr V complained that the loan was unaffordable. AvantCredit looked into his complaint but didn't uphold it. It said it had carried out proper checks and it thought the loan was affordable.

Mr V referred his complaint to us. He said he'd been struggling with debt at the time he took out the loan. Our adjudicator upheld the complaint. They didn't think AvantCredit should have advanced the loan to him.

As AvantCredit didn't agree, the matter has been referred 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.

Having carefully thought about everything, I think that there are two overarching questions that I need to answer in order to fairly and reasonably decide Mr V's complaint. These two questions are:

1. Did AvantCredit complete reasonable and proportionate checks to satisfy itself that Mr V would be able to repay the loan without experiencing significant adverse consequences?
 - If so, did it make a fair lending decision?
 - If not, would those checks have shown that Mr V would've been able to do so?
2. 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 Mr V's ability to make the repayments under this 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 Mr V undue difficulty or significant adverse consequences. That means he 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 he had a contractual or statutory obligation to make and without the repayments having a significant adverse impact on his 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 Mr V. 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 Mr V's complaint.

AvantCredit asked for information about Mr V's income and expenses. Mr V said his net monthly income was £2,900 and his expenses came to £1,100. AvantCredit verified his income as £2,014.

It also obtained a credit report. That showed Mr V had opened three new accounts in the previous three months and taken out credit of £3,858 in the last six months. There was an indication of over-indebtedness on the credit search. He was near the limits of his three credit cards and one credit card account was marked as "*delinquent*". There had been recent reliance on pay day lending. He was paying £1,052 a month in respect of his credit commitments. That was over half his monthly income. Worryingly two accounts were on repayment plans. I think this ought to have caused AvantCredit some concern as it appeared Mr V's finances might be strained and that any additional lending might not be sustainable.

Given the amount of new credit Mr V had taken out over the last year and the size of the debts he was servicing compared with his income, I feel there is evidence there to show he was becoming increasingly reliant on credit. I would have expected AvantCredit to look more closely into his financial situation for example, by asking for bank statements or similar.

Mr V has provided me with some bank statements from July to September 2015. I can see that he took out a payday loan of £650 in July and loans of £751 in August. It appears to me that Mr V was in a cycle of debt which was growing each month. This suggests to me he

wouldn't be able to keep up the loan repayments with Avant Credit sustainably over the 48 months of the loan term.

AvantCredit has explained that the purpose of the loan was debt consolidation. Mr V could have used the £2,900 loan to repay some of his short-term loans which in turn could have reduced his credit commitments going forward to an estimated £302.48. Adding on the new loan repayment to AvantCredit he would have been paying a total of £446.14 in credit commitments although more than this would have been needed to reduce his credit card debt of £1,721 in a meaningful way by him making more than the minimum monthly repayments.

However, AvantCredit didn't pay off any of these loans directly. So it couldn't be sure it wasn't putting him in a worse position by increasing his 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 Mr V.

So, for the reasons I've set out above, I don't think AvantCredit should have provided Mr V with the loan.

The fact that Mr V repaid the loan from further borrowing doesn't mean that he was able to do so sustainably (AvantCredit's notes show that he did struggle to keep up the repayments) or that this is a good enough reason for me not to uphold his complaint that the loan was unaffordable.

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

As I have concluded AvantCredit shouldn't have provided the loan, it should:

- refund all interest, fees and charges applied to the loan;
- pay interest* of 8% simple a year on any refunded interest, fees and charges from the date they were paid (if they were) to the date of settlement; and
- remove any negative information about the loan from Mr V's credit file.

*HM Revenue & Customs requires AvantCredit to take off tax from this interest. AvantCredit must give Mr V a certificate showing how much tax it's taken off if he asks for one.

My final decision

For the reasons given above, I uphold Mr V's complaint and require AvantCredit of UK, LLC to put things right for Mr V as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 21 April 2022.

Elizabeth Grant
Ombudsman