

The complaint

Ms F complains about AvantCredit of UK, LCC ("AC") and their decision to provide her with a high-interest loan which she was unable to afford.

What happened

In February 2017, Ms F applied for a high-interest loan with AC. This application was approved, and Ms F was provided with a loan of £3,200 which was repayable over a 24-month term with a monthly repayment of £253.62.

Ms F maintained the monthly repayments initially. But she missed the monthly repayment in June and was diagnosed with a mental health condition soon after which led to a loss in income. Ms F was unable to make full monthly repayments to the account after this time, which led to a build-up of arrears. Eventually, the account was defaulted, and Ms F's outstanding debt was sold. Ms F was unhappy about this, so she raised a complaint.

Ms F thought AC's decision to approve her loan was irresponsible as she thought it should've been clear to AC she'd be unable to repay the loan in a sustainable way. And she explained how this debt had impacted her mental health negatively. So, she wanted AC to waive the outstanding balance and to remove any negative information recorded to her credit file.

AC responded and didn't agree. They thought they had completed proportionate checks before approving Ms F's loan. And they didn't think the information these checks provided suggested the loan was unaffordable. So, they didn't think they had done anything wrong when lending to Ms F and so, they didn't think they needed to do anything more. But they did say they would pass Ms F's account to their payments team to review, considering Ms F's suffering with her mental health at that time.

Ms F remained unhappy with this response, so she referred her complaint to us. But she did so outside of the six-month time limit AC provided. Ms F explained to our service this was due to further struggles with her mental health that prevented her from coming to our service sooner. This information was put to AC, who consented for our service to continue with our investigation.

Our investigator looked into the complaint and upheld it. They thought the checks AC completed were proportionate. But they didn't think AC assessed the information these checks provided fairly. Our investigator thought AC should've recognised the significant increase in debt Ms F's credit file reflected over the previous six months and asked for further information to understand why this was. And they also didn't think Ms F was left with a reasonable disposable income after the payments to service these debts were made, considering the low rent information Ms F declared.

Our investigator also recognised Ms F's mental health and the impact this had on her employment status and income more recently. So, to put things right and take this into consideration, our investigator thought AC should settle any outstanding balance Ms F held related to the loan and to remove any negative information recorded on her credit file.

Ms F accepted this recommendation. But AC didn't. They provided additional affordability calculations based on Ms F's credit file at the time the application was approved. And they thought this showed Ms F had a reasonable disposable income after all of her credit commitments had been paid. So, they didn't agree they'd acted irresponsibly. Our investigator considered these comments but maintained their view that the AC had acted unfairly when approving the loan. As AC didn't agree, the complaint has been passed to me for a decision.

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.

Having done so, I'm upholding the complaint for broadly the same reasons as the investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

It's important to note there aren't a set amount of checks a lender such as AC must make before they take the decision to approve a loan. Instead, they are expected to make checks that are proportionate to the value and duration of the loan being provided, compared against an applicant's income.

In this situation, Ms F received a loan of £3,200. And she declared an income of £2,500 a month, which equates to an annual salary of just under £40,000 a year. So, the loan itself was for less than 10% of Ms F's yearly salary.

I can see that before approving the loan, AC considered Ms F's income, employment status, homeowner status and any other information declared on her application alongside the information reported to her credit file. Considering these checks against the loan value to income Ms F was receiving, I think these checks were proportionate.

But as well as being satisfied the checks made were proportionate, I also need to be satisfied that AC assessed the information these checks provided fairly. And in this situation, I don't think they did.

First, I've thought about the loan affordability. I can see before Ms F took out the loan, Ms F was spending just over £1,500 a month to service her existing credit commitments. And with the loan amount factored in, this would increase Ms F's monthly credit commitments to be just over £1,800 a month, which left Ms F with just under £700 after these commitments were paid.

But crucially, this £700 didn't include Ms F's rent, which she declared to be £100 a month. I think this declared amount is significantly lower than what would be expected, and I think, due to Ms F's high existing credit commitments already, AC should've asked Ms F to confirm why this was low and seek evidence to confirm this. I can't see that they did this.

But with this £100 factored in, this left Ms F with just under £500. And this £500 would need to cover all of Ms F's food, travel, clothing, and entertainment costs as well as any insurance products she is likely to have taken out. And it's important to note this £500 was only available if Ms F paid the only the minimum payments on her credit card accounts, which isn't a sustainable way for her to have managed her debt.

While I appreciate AC believe this would be affordable, I don't think they could've known this for sure when they approved the loan. Considering Ms F's clear reliance on credit, with over

70% of her monthly income needing to be used to pay existing credit commitments, I think AC should've requested bank statements from Ms F to confirm exactly what her average additional spending totalled. And I can't see they did. So, I don't think they did enough to fairly satisfy themselves the loan would be affordable to Ms F, for her to pay in a sustainable way over the full term.

In addition to this, I can see from the credit file information AC considered, that in the three months before Ms F's application, there had been balance increases on 11 of her existing credit accounts. And Ms F's total debt balance had increased by over £2,300 in those three months and over the 12 months previous, Ms F's total debt balance had increased by more than £15,000.

I think this should've signalled to AC that Ms F had been increasing her credit commitments consistently for a sustained period of time. And I think this should've led AC to seek further information, such as bank statements or a completed income and expenditure form, to understand why Ms F had increased her credit commitments so significantly. Again, I can't see that they did this. So, I don't think I can say they assessed the information their checks provided fairly and because of this, I think they acted irresponsibly when deciding to provide Ms F with the loan. As I don't think AC acted reasonably, I've then thought about what I think AC should do to put things right.

Putting things right

Any award or direction I make is intended to place Ms F back in the position she would've been, had AC acted fairly and reasonably in the first instance.

In this situation, had AC acted fairly, I think they would've sought further information from Ms F before approving the loan. And I think if they had, it's most likely they would've taken the decision to decline Ms F's application and not provide the loan as it was clear within months of the application that Ms F couldn't afford the repayments as she fell into arrears. In this situation, our service's usual approach is to direct AC to refund any interest and charges applied to the loan account. But, we would usually say the capital balance of the loan would still need to be repaid, as the customer has been able to make use of this capital.

But there are occasions where we say the entire loan, including the capital balance, should be refunded or written off, if a balance is still outstanding. And I think this complaint is one of these occasions.

Since the loan was approved, Ms F has been diagnosed with several mental health conditions. I've seen a letter provided by Ms F's GP which explains between 2015 and July 2017, these conditions led to her accruing significant debts and overspending. I think this explains the significant increase in Ms F's credit commitments in the 12 months before Ms F received the loan from AC, which I think they should've done more to question.

The letter also explains that due these mental health conditions, Ms F is unable to work and is in receipt of disability benefits. I can see from a recent income and expenditure form that Ms F completed that her income of £568.97 a month is still less than her outgoings of £604.58. So, I think it's reasonably clear Ms F has no reasonable way of repaying her debts, including the outstanding balance of the loan AC provided.

So, on this occasion, considering I don't think AC should've provided the loan and I feel their decision to do so impacted Ms F in a way that has now left her with no reasonable way of repaying the capital balance, I think the outstanding balance should be settled with Ms F having nothing left to pay.

I appreciate AC sold Ms F's debt to another company. And they say they are unable to buy this back. But I don't think this is the fault of Ms F. Nor do I think it should be Ms F's responsibility to engage with the new debt owner or ask this debt owner to waive the outstanding balance. So, I think AC should liaise with this debt owner and settle the outstanding balance, so Ms F has no further debt to pay regarding the loan, in whatever way they can agree with the new debt owner.

And had AC not provided the loan to Ms F, this loan would never have been reported to Ms F's credit file. So, I think any negative information reported to Ms F's credit file regarding the loan should be removed.

My final decision

For the reasons outlined above, I uphold Ms F's complaint about AvantCredit of UK, LCC and I direct them to take the following action:

- Settle Ms F's outstanding debt with the new debt owner so Ms F has no balance left to pay; and
- Remove any negative information recorded on Ms F's credit file relating to this loan.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms F to accept or reject my decision before 19 July 2022.

Josh Haskey
Ombudsman