

The complaint

Mr Y believes AvantCredit of UK, LLC acted irresponsibly by agreeing a loan he'd applied for.

What happened

In March 2016 Mr Y took out a £2,000 loan with Avantcredit, to be repaid over 12 months with repayments of £211.90 a month. This loan was repaid in June 2016.

Mr Y has complained that Avantcredit didn't act responsibly when approving the loan. He said he had a history of sustained lending from multiple borrowers, a bad credit rating, and a gambling addiction. So he didn't think the checks Avantcredit did were thorough enough, and he didn't think they should've approved the loan. Avantcredit didn't agree, so Mr Y brought his complaint to us for investigation.

Our investigator said Avantcredit did a credit search and obtained details of Mr Y's income and expenditure. This showed all of Mr Y's credit commitments were up to date, and the new loan was affordable. So she thought they'd carried out reasonable and proportional checks, and she wouldn't have expected them to do anything more.

The investigator also noted that Avantcredit had offered Mr Y £80 as a goodwill gesture, because this loan wouldn't meet their current lending criteria, which he'd rejected. But she said she needed to consider the lending criteria in place in 2016, when Mr Y applied for the loan, and not the current criteria. So she didn't think Avantcredit needed to do anything.

Mr Y didn't agree with the investigator and he's asked for an ombudsman to make a final decision.

I issued a provisional decision on 14 December 2020, where I explained my intention to uphold the complaint. In that decision I said:

When someone complains about irresponsible and/or unaffordable lending, I need to consider whether the lender completed reasonable and proportionate checks to satisfy itself that the lending was affordable, and that the affordability was sustainable. Where reasonable and proportionate checks were carried out, I need to consider if the lending decision was fair. And if reasonable and proportionate checks weren't carried out, I need to consider if the loan would've been approved if the checks had taken place.

There's no set list for what reasonable and proportional checks are, but I'd expect lenders to consider things such as the amount, duration and payments of the loan being applied for; as well as the borrowers' personal circumstances at the time of each application.

I've seen the documents Avantcredit checked at the time they approved Mr Y's loan. He'd declared a monthly income of £1,850 and this was verified from the credit search they did. The credit search showed Mr Y had a history of taking out multiple short-term payday loans. It also showed that Mr Y was paying £1,152 a month for his existing credit commitments, which had a total outstanding balance of £1,641.

The credit search also showed that Mr Y had missed payments within the last two months and had a default 12-months ago. And it flagged an 'overindebtedness indicator' as being present. It also showed that Mr Y owed 264% more money than he had 12-months earlier.

Different lenders have different criteria, so I can't say that the default and the recent missed payments should've been a reason why the loan should've been automatically declined. But I'd expect Avantcredit to have taken this into consideration as part of their lending decision.

Mr Y had a verified monthly income of £1,850. He declared he paid £700 for his rent and household bills, and an additional £450 for other monthly expenses (food etc.). His existing credit commitments were £1,152 a month, meaning that Mr Y didn't have enough income to support all of his existing outgoings, let alone the new loan with Avantcredit. And, because the new loan was needed for car repairs, it wouldn't have been used to repay any existing debt and free up any monthly disposable income for Mr Y.

I'm aware that, with the monthly payments and outstanding balances, Mr Y's existing credit commitments would've been repaid within two months. And Avantcredit's loan would've then been affordable. But this could only happen if Mr Y made the payments. And, given that the credit commitment payments and his essential household bills (rent, council tax, utilities etc.) totalled Mr Y's income, so he couldn't even afford to live; it's not possible that Mr Y could've repaid these debts without additional borrowing. And it was a situation which would've been made worse by the granting of Avantcredit's loan.

Given these circumstances, I don't think it was appropriate or responsible for Avantcredit to lend Mr Y any money at this time. But, because they did, I think they should do something to put this right.

For the reasons explained above I intend to uphold Mr Y's complaint. And AvantCredit of UK, LLC should:

- Add up the total amount of money Mr Y received as a result of having been given the loan. The repayments Mr Y made should be deducted from this amount. If this results in Mr Y having paid more than he received, any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement). [†]*
- Remove any negative information recorded on Mr Y's credit file relating to the loan.*

[†]HM Revenue & Customs requires AvantCredit to take off tax from this interest. AvantCredit must give Mr Y a certificate showing how much tax they've taken off if he asks for one.

responses

Both AvantCredit and Mr Y accepted my provisional 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.

Because both parties have accepted my provisional decision, and because no further evidence has been submitted that changes my mind, I see no reason not to adopt my provisional decision as my final decision.

Putting things right

For the reasons explained, AvantCredit of UK, LLC should:

- Add up the total amount of money Mr Y received as a result of having been given the loan. The repayments Mr Y made should be deducted from this amount. If this results in Mr Y having paid more than he received, any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement).[†]
- Remove any negative information recorded on Mr Y's credit file relating to the loan.

[†]HM Revenue & Customs requires AvantCredit to take off tax from this interest. AvantCredit must give Mr Y a certificate showing how much tax they've taken off if he asks for one.

My final decision

For the reasons explained above I uphold Ms Y's complaint. AvantCredit of UK, LLC should follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Y to accept or reject my decision before 14 January 2021.

Andrew Burford
Ombudsman