

## **The complaint**

Mr P says AvantCredit of UK, LLC lent to him irresponsibly.

## **What happened**

In March 2016 Mr P took out a 48-month instalment loan from AvantCredit for £3,800. The monthly repayment was £152.36 and the total repayable was £7,313.14.

Mr P says he took out the loan to repay other debt but he struggled with the repayments and ended up in more debt.

The investigator said Mr P's complaint should be upheld. He said had AvantCredit completed better checks it would have most likely seen Mr P was having problems managing his money and that he would be unlikely to be able to make his loan repayments sustainably.

AvantCredit disagreed saying the correct checks were completed. The loan would have consolidated 55% of Mr P's total debt and he would have £551 remaining each month before using the funds for consolidation.

It asked for an ombudsman's review so the complaint was passed to me to make 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.

Our approach to unaffordable/irresponsible lending complaints is set out on our website and I've followed it here.

The Financial Conduct Authority (FCA) was the regulator when AvantCredit lent to Mr P. Its rules and guidance, set out in its Consumer Credit Sourcebook (CONC), obliged AvantCredit to lend responsibly. Amongst other things, AvantCredit was required to carry out a reasonable and proportionate assessment of whether Mr P could afford to repay what he owed in a sustainable manner. This is sometimes referred to as an affordability assessment or an affordability check.

The checks also had to be borrower-focused. So AvantCredit had to think about whether repaying the credit sustainably would cause any difficulties or adverse consequences for Mr P. 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 P.

Checks also had to be proportionate to the specific circumstances of each loan application. In general, what makes up 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 and cost of credit they have applied

for.

In light of this, I think that a reasonable and proportionate check ought generally to have been *more* thorough:

- the *lower* a customer's income (reflecting that it could be more difficult to make any repayments to credit from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet higher repayments from a particular level of income);
- the *longer* the period of time a borrower will be indebted for (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make repayments for an extended period).

There may also be other factors which could influence how detailed a proportionate check should've been for a given application – including (but not limited to) any indications of borrower vulnerability and any foreseeable changes in future circumstances. I've kept all of this in mind when thinking about whether AvantCredit did what it needed to before agreeing to lend to Mr P, and have considered the following questions:

- did AvantCredit complete reasonable and proportionate checks when assessing Mr P's loan application to satisfy itself that he would be able to repay the loan in a sustainable way?
- if not, what would reasonable and proportionate checks have shown?
- did AvantCredit make a fair lending decision?
- did AvantCredit act unfairly or unreasonably in some other way?

AvantCredit asked for some information from Mr P before it approved the loan. It asked for details of his income and checked this against a copy of his recent bank statements. It asked about his living costs and it checked his credit file to understand his existing credit commitments and his credit history. It also asked about the purpose of the loan which was debt consolidation. From these checks combined AvantCredit concluded Mr P would have monthly disposable income of around £550 and so the loan would be affordable.

I don't think these checks were proportionate given Mr P had a relatively low income and needed to be able to make repayments sustainably over a four-year period. I think it ought to have completed a fuller financial review, particularly given some of the information it gathered as part of its initial checks.

Mr P has provided a copy of his full credit file which allows me to understand more about his financial position at the time of application. This shows he was reliant on high-cost short-term credit, having taken out his most recent loan in the month before and one each month for the six months prior. I think this, combined with data AvantCredit already had from its credit check, ought to have alerted the lender to the fact Mr P was having problems managing his money. It knew from its own credit check that Mr P had taken out at least 62 short-term high-cost loans in the past six years. Whilst that report showed they were all settled, from that volume of loans AvantCredit ought to have realised Mr P was in a harmful, long-term cycle of borrowing to repay. And giving this loan would extend and prolong his reliance on high-cost credit for a further 48 months.

I have thought carefully about the point that this loan was for debt consolidation so Mr P's outgoings would be reducing. But I can't fairly conclude in the circumstances of this case that meant giving the loan could not cause adverse financial consequences for Mr P. AvantCredit could see Mr P had taken out larger, longer-term loans in the past, yet he had

not managed to break his reliance on payday loans and continued to have problems managing his money.

And I've seen no evidence the lender took any steps to understand which debt Mr P was looking to repay to know that its loan would be financially beneficial, not harmful. And it also doesn't seem to have assessed how much any debt consolidation would reduce Mr P's monthly credit commitments by. Mr P's debt was in excess of £6,800 so he would still have debt to service. So this does not change my conclusion.

In addition, AvantCredit could see on the bank statements it had that Mr P was frequently gambling. There were 29 gambling transactions in a 30-day period, and whilst they were all low value, I think they were further evidence that Mr P was having problems managing his money.

Overall, I think it was irresponsible of AvantCredit to lend to Mr P. It should not have given the loan to him.

I haven't found any evidence that AvantCredit acted unfairly or unreasonably in some other way.

### **Putting things right**

It's reasonable for Mr P to have repaid the capital amount that he borrowed as he had the benefit of that money. But he has paid interest and charges on a loan that shouldn't have been given to him. So he has lost out and AvantCredit needs to put things right.

I understand AvantCredit has sold the debt so it should try to buy it back. If that's not possible it must work with the new owner to achieve the same outcome as the steps set out below.

It should:

- Remove all interest, fees and charges on the loan and treat all the payments Mr P made as payments towards the capital.
- If reworking Mr P's loan account results in him having effectively made payments above the original capital borrowed, then AvantCredit should refund these overpayments with 8% simple interest calculated on the overpayments, from the date the overpayments would have arisen, to the date of settlement\*.
- If reworking Mr P's loan account results in there being an outstanding capital balance AvantCredit should work to agree an affordable repayment plan with Mr P.
- Remove any adverse information recorded on Mr P's credit file in relation to the loan.

\*HM Revenue & Customs requires AvantCredit to deduct tax from this interest. AvantCredit should give Mr P a certificate showing how much tax it's deducted, if he asks for one.

### **My final decision**

I am upholding Mr P's complaint. AvantCredit of UK, LLC trading as Avantcredit must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 20 April 2022.

Rebecca Connelley  
**Ombudsman**