

## The complaint

Mrs K complained that AvantCredit of UK, LLC lent to her irresponsibly and provided her with unaffordable lending.

## What happened

AvantCredit provided loans to Mrs K as follows:

Date taken	Capital loan amount	Term	Typical monthly repayment	Total amount repayable	Loan Repaid
February 2016	£1,200	24 months	£72.94	£1,750.44	April 2018
May 2018	£1,900	36 months	£92.27	£3,321.90.	July 2019

When Mrs K complained to AvantCredit it didn't uphold her complaint so she brought her complaint to us. One of our adjudicators looked at the complaint and thought that whilst loan 1 didn't look like it had been unfairly provided, AvantCredit shouldn't have provided loan 2. Our adjudicator explained why he was recommending that this part of Mrs K's complaint should be upheld and he set out directions indicating what AvantCredit should do to put things right.

Mrs K accepted our adjudicator's view. AvantCredit disagreed. It mainly said that Mrs K had around £14 disposable income left after paying its loan on top of all her other monthly outgoings and her spending on credit would amount to around 43% of her income.

So, as the complaint hasn't been resolved, it comes to me to decide.

## 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 approach to unaffordable/irresponsible lending complaints on our website and I've kept this in mind while deciding this complaint.

Having done so, I think our adjudicator reached a fair and reasonable outcome and I am upholding Mrs K's complaint about loan 2 for broadly the same reasons. I'll explain why I say this.

The rules don't say what a lender should look at before agreeing to lend. But reasonable and proportionate checks should be carried out. Lenders must work out if a borrower can sustainably afford the loan repayments alongside other reasonable expenses the borrower also has to pay. This should include more than just checking that the loan payments look affordable on a strict pounds and pence calculation – a proportionate check might also

require the lender to find out the borrower's credit history and/or take further steps to verify the borrower's overall financial situation.

If reasonable and proportionate checks weren't carried out, I need to consider if a loan would've been approved if the checks had been done. If proportionate checks were done and a loan looks affordable, a lender still needs to think about whether there's any other reason why it would be irresponsible or unfair to lend. For example, if the lender should've realised that the loan was likely to lead to significant adverse consequences or more money problems for a borrower who is already struggling with debt that can't be repaid in a sustainable way.

I have reviewed the information AvantCredit gathered when it agreed to provide this loan. Alongside asking Mrs K what her regular outgoings were each month, AvantCredit also carried out its own credit checks to understand Mrs K's credit history and current credit commitments and it took steps to verify that her declared income was around £1,400 per month – which its credit checks also showed.

Like our adjudicator, I think the checks AvantCredit did were broadly proportionate. And whilst having other outstanding lending or even an impaired credit history wouldn't be unusual for a borrower applying for this type of expensive borrowing, and it wouldn't necessarily be a bar to lending, I don't think AvantCredit took properly into account what the information it had gathered showed about Mrs K's overall financial situation and the likelihood of her being able to pay its loan in a sustainable manner.

I think AvantCredit should have been concerned to see that when Mrs K applied for loan 2, it was evident that she had already exceeded the limit of her available credit and there were other signs that she had run into financial difficulties keeping up with her contractual monthly repayments. AvantCredit has acknowledged that her *minimum* contractual debt repayments would be an estimated £611.82 (comprising regular payments of £474.27, £137.55 to cover minimum payments plus the monthly repayments for this loan) costing Mrs K 43% of her verified income after she took out loan 2.

This didn't allow any margin for Mrs K to make any meaningful inroads into repaying her revolving credit debts - I think it's fair to say that making only minimum monthly repayments towards the outstanding balance on credit cards effectively serves mainly to extend the debt and it adds very significantly to the long term cost of that credit. And Mrs K had told AvantCredit that the loan was for home improvements – so it knew that it would likely add to her overall indebtedness.

I don't think AvantCredit was reasonably able to be satisfied in these circumstances that Mrs K would be able to make its loan repayments in a sustainable way.

Bearing in mind the repayment of this loan on top of the debt AvantCredit saw Mrs K was already responsible for paying, I think it's fair to say that Mrs K needed to pay a significant portion of her income towards credit. And in my opinion, as a responsible lender, AvantCredit should've realised that Mrs K would likely struggle to repay this loan – especially bearing in mind the 36 month loan term.

So, thinking about all the information AvantCredit had gathered, I can't reasonably say that it made a fair lending decision based on the information in front of it. I don't think AvantCredit was able to safely conclude that its loan would be sustainably affordable for Mrs K. So it shouldn't have provided it and AvantCredit needs to put things right.

In coming to my decision, I've taken into account that AvantCredit said it expected Mrs K to make lifestyle changes to help her afford the loan repayments. But I don't think that

was a fair or reasonable basis for providing a loan that wouldn't be sustainably affordable unless Mrs K made changes that AvantCredit couldn't assume Mrs K was in a position to make. And the fact that Mrs K paid the loan ahead of time doesn't mean that she was able to do so in a way that was sustainably affordable.

Mrs K sent us some further information about her financial situation. I don't need to say more about this as I think AvantCredit had enough in the information in front of it to have realised that adding to Mrs K's debt was likely to be unsustainable for her and put her in the position of needing to borrow further in order to be able to repay her other debt. But I would just mention that a more up to credit report she sent us shows this is what happened, as I think was reasonably foreseeable. So it isn't correct to suggest that the fact Mrs K repaid her loan on time with no issues means that she was able to do so in a way that was sustainable – that's not borne out by the information I've seen which supports my view that AvantCredit's loan was detrimental to Mrs K.

So, I am upholding Mrs K's complaint that she should not have been given loan 2.

### **Putting things right**

Our adjudicator didn't recommend that AvantCredit should pay any additional redress. Mrs K hasn't commented on that and I haven't seen anything which makes me think AvantCredit acted unfairly towards Mrs K in any other way. So I'm not awarding any additional redress.

And I think it is fair and reasonable for Mrs K to repay the capital amount that she borrowed, because she had the benefit of that lending.

But she has paid extra for lending that should not have been provided to her.

In line with this Service's approach, Mrs K shouldn't repay more than the capital amount she borrowed.

AvantCredit should do the following:

- add up the total amount of money Mrs K received as a result of having been given loan 2. The repayments Mrs K made should be deducted from this amount
- if this results in Mrs K having paid more than she received, then any overpayments should be refunded along with 8% simple interest\* (calculated from the date the overpayments were made until the date of settlement)
- whilst it's fair that Mrs K's credit file is an accurate reflection of her financial history, it's unfair that she should be disadvantaged by any adverse information recorded about a loan that was unfairly provided. So AvantCredit should remove any negative information recorded on Mrs K's credit file regarding loan 2.

\*HM Revenue & Customs requires AvantCredit to deduct tax from this interest. AvantCredit should give Mrs K a certificate showing how much tax has been deducted if she asks for one.

### **My final decision**

I uphold Mrs K's complaint about loan 2 and direct AvantCredit of UK, LLC to take the steps I've set out above to put things right.

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

Susan Webb  
**Ombudsman**