

### The complaint

Mr P complains that AvantCredit of UK, LLC lent him money on high interest loans he was unable to afford to repay

### What happened

AvantCredit provided the following loans to Mr P:

	<b>Date</b>	<b>Amount</b>	<b>Term</b>	<b>Monthly repayment</b>	<b>Total Payable</b>	<b>Date repaid</b>
Loan one	03/08/2015	£1,000	12 months	£101.80	£1,221.63	01/08/2016
Loan two	08/08/2016	£2,000	24 months	£110.71	£2,656.98	05/08/2018

Mr P complained that they were high interest loans and that it caused him financial difficulty in having to repay them.

AvantCredit said that for both loans Mr P provided details of his financial circumstances in his loan application. It considered this and verified the income amount he provided against information available to it from the Credit Reference Agencies ("CRAs"). It also took into consideration further information provided by the CRAs, such as his credit score and existing credit commitments. It said that at no time did it offer him a loan for an amount higher than it considered he could afford, so it carried out affordability assessments fairly.

Our adjudicator said that taking into account Mr P's circumstances AvantCredit should have carried out further checks and that those checks would have revealed that the loan repayments in Mr P's circumstances weren't sustainable. He said the decision to lend both loans to him was in his opinion unfair.

AvantCredit disagreed, setting out that both loans were for debt consolidation and provided tables of debts that Mr P could have repaid, bringing his credit commitments down to a manageable level and making the loans affordable.

The matter has been passed to me for further consideration.

## 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 the relevant rules, guidance, and good industry practice - on our website.

Considering the relevant rules, guidance, and good industry practice, I think the questions I need to consider in deciding what's fair and reasonable in the circumstances of this complaint are:

- Did AvantCredit complete reasonable and proportionate checks to satisfy itself that Mr P would be able to repay the loans in a sustainable way?
- If not, would those checks have shown that Mr P would have been able to do so?

The rules and regulations in place required AvantCredit to carry out a reasonable and proportionate assessment of Mr P's ability to make the repayments under the agreements. 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 loans would be sustainable. In practice this meant that AvantCredit had to ensure that making the repayments on the loans wouldn't cause Mr P 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 P. 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. I think that such a 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 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).

Mr P had a low income, so AvantCredit should have carried out a thorough assessment of Mr P's financial circumstances at the time of the application.

#### *loan one*

As set out above, AvantCredit's checks consisted of assessing Mr P's circumstances from his loan application, verifying his income, and checking his credit record. AvantCredit has provided a credit summary rather than the full credit record. However from this it could be seen that Mr P had taken out seven credit accounts in the six months prior to the loan, four of which were short term loans.

The loan was supposed to be for debt consolidation, but in light of the information in the credit report, I think AvantCredit should have carried out a more thorough assessment of Mr P's finances to establish affordability.

The most appropriate source of that information would have been bank statements, although there may have been other evidence. Mr P has supplied his bank statements which showed that between April 2015 and July 2015, he took out a total of eight short term loans, some of which didn't appear on his credit report. With the loan instalment he would have had credit commitments of about £630 out of an income of £1,700, which is quite high.

I appreciate that AvantCredit says that Mr P should have used the loan to pay off his credit commitments, bringing the ratio of income against commitments down to an affordable level. However it hasn't shown in its records that the loan was used for paying off specific loans. It could have stipulated that in order to borrow the money, the loans had to be paid off e.g. by paying the loan companies out of the loan before providing any money to Mr P. It didn't do that and I think as a result the loan was unaffordable to Mr P. I don't think AvantCredit made a fair lending decision in respect of this loan.

#### *loan two*

Mr P had paid up loan one, but I note he missed three payments which he had to be chased about. In respect of this loan, Mr P declared the same income and living expenses. Though I note the latter was set out at £600 when it actually totalled £837. The credit report showed that that he had taken on eight new accounts in the previous six months, four of which were in the three months prior to this loan. And it would have been apparent that his credit commitments hadn't reduced as they were supposed to after the first loan.

Again I think AvantCredit should have carried out further checks because of the information revealed by the credit report and because of Mr P's previous history with it. With the new loan, his credit commitments from his bank statements would have increased to £760 a month, about £120 a month higher than AvantCredit's calculations.

Again AvantCredit says that Mr P should have used the loan to pay off his credit commitments. However again it didn't ensure this was done. I take into account that Mr P approached AvantCredit for this loan only a few days after paying off loan one with higher credit commitments than when he took out loan one. But it still didn't ensure that Mr P paid off his credit commitments.

AvantCredit has suggested that Mr P could still have afforded the loan without paying off his other loans/credit, as he would have had a disposable income of £292. I calculate this to be more like £103. I note also that Mr P had gambling payments on his recent bank statements. I don't think this loan was affordable.

So I don't think AvantCredit made a fair lending decision in respect of this loan.

## **Putting things right**

I think it's fair that Mr P should repay the capital sums he's received as he's had the benefit of that. But I think AvantCredit should repay all the interest and other charges on the loans. It should:

- refund all interest and charges Mr P paid on both loans.
- pay interest of 8% simple a year on any refunded interest and charges from the date(s) they were paid (if they were) to the date of settlement.\*
- remove any negative information if appropriate about the loans from Mr P's credit file.

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

## **My final decision**

I uphold the complaint and require AvantCredit of UK, LLC to provide the remedy set out under "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 25 April 2022.

Ray Lawley  
**Ombudsman**