

The complaint

Mr F complained that AvantCredit of UK, LLC lent to him irresponsibly and provided him with unaffordable lending.

What happened

AvantCredit provided a loan to Mr F as follows:

Date	Amount	Term	Typical monthly repayment	Total amount payable	Loan status
16/06/2016	£2,000	24 months	£124.17	£2,980.09	Paid

When Mr F complained to AvantCredit it didn't uphold his complaint so he brought his complaint to us. One of our investigators looked at the complaint and thought that AvantCredit shouldn't have provided the loan. Our investigator explained why he was recommending that the complaint should be upheld and he set out directions indicating what AvantCredit should do to put things right.

AvantCredit disagreed with our investigator's view. It mainly said the loan purpose was debt consolidation and that using the loan to repay other debt would've helped Mr F.

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 am upholding Mr F's complaint for broadly the same reasons as our investigator. I'll explain my reasons.

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 looked affordable, a lender still needed to think about whether there was 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 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. AvantCredit relied on an online check to verify Mr F's declared income and recorded that his pay was around £1,250 per month. Alongside asking Mr F about his monthly expenses, AvantCredit also carried out its own credit checks to understand his credit history and current credit commitments.

Our investigator didn't think AvantCredit's checks were proportionate. But, I don't need to make a finding on that point as it makes no difference to the outcome. Despite its affordability calculation appearing to show that Mr F should have had enough disposable income each month to cover the loan repayments, I think AvantCredit should've realised this was unlikely, given the picture painted overall by the other information it had gathered.

And I think AvantCredit should have been concerned to see that when Mr F applied for this loan the credit report it obtained for him showed that in the previous 6 months Mr F had taken out six new short term loans –two of them within the last 3 months. All in all, the total value of accounts he'd opened in the last 6 months was £2,573. AvantCredit could see that Mr F had paid £701 towards short-term loans over the previous month. And he was currently paying £922 in total each month on his active credit accounts (not including any mortgage). So it was evident that his debt repayments cost Mr F well over half of his declared income.

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 think AvantCredit should've realised that Mr F's debt had got beyond his control and it seemed likely he was borrowing from one creditor to pay others.

I've taken into account that AvantCredit understood the loan was intended for debt consolidation. But AvantCredit didn't have control over how Mr F used the loan as it paid the loan balance to him. And having seen the extent of Mr F's money problems, even if Mr F had used this loan to repay existing debt, I don't think AvantCredit had sufficient reason to think this would've benefitted his overall position sufficiently to achieve a significant and sustainable improvement in his financial situation – given his outstanding indebtedness overall and reliance on using payday and unsecured loans. So all the indications were that he would most likely remain in serious financial trouble regardless.

The fact that Mr F paid the loan on time doesn't mean that he was necessarily able to do so in a way that was ultimately sustainable for him.

To sum up, I can't reasonably say that AvantCredit 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 Mr F. So it shouldn't have provided it and AvantCredit needs to put things right.

Putting things right

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

I think it is fair and reasonable for Mr F to repay the capital amount that he borrowed, because he had the benefit of that lending. But he has paid extra for lending that should not have been provided to him.

In line with this Service's approach, Mr F shouldn't repay more than the capital amount he borrowed.

AvantCredit should do the following:

- add up the total amount of money Mr F received as a result of having been given the loan. The repayments Mr F made should be deducted from this amount
- if this results in Mr F having paid more than he 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 Mr F's credit file is an accurate reflection of his financial history, it's unfair that he should be disadvantaged by any adverse information recorded about a loan that was unfairly provided. So AvantCredit should remove any negative information recorded on Mr F's credit file regarding the loan.

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

My final decision

I uphold this complaint and direct AvantCredit of UK, LLC to take the steps I've set out above to put things right for Mr F.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 29 June 2022.

Susan Webb
Ombudsman