

The complaint

Ms P says AvantCredit of UK, LLC irresponsibly lent to her.

What happened

This complaint is about a loan provided by AvantCredit for £1800 to Ms P in January 2016.

Our investigator upheld Ms P's complaint and thought AvantCredit shouldn't have been given the loan. AvantCredit disagreed and the complaint was passed to me.

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

Having carefully thought about everything, I think that there are two overarching questions that I need to answer in order to fairly and reasonably decide Ms P's complaint. These two questions are:

1. Did AvantCredit complete reasonable and proportionate checks to satisfy itself that Ms P would be able to repay loans in a sustainable way and without experiencing significant adverse consequences?
 - If so, did it make a fair lending decision?
 - If not, would those checks have shown that AvantCredit would've been able to do so?
2. Did AvantCredit act unfairly or unreasonably in some other way?

The rules and regulations in place required AvantCredit to carry out a reasonable and proportionate assessment of Ms P ability to make the repayments under this agreement. 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 loan would be sustainable and cause significant adverse consequences *for Ms P*. In practice this meant that business had to ensure that making the payments to the loan wouldn't cause Ms P undue difficulty or significant adverse consequences.

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 Ms 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.

In light of this, I think that a reasonable and proportionate 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 of time 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).

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Ms P's complaint.

Did AvantCredit complete reasonable and proportionate checks to satisfy itself that Ms P would be able to repay the loan in a sustainable way or without experiencing significant adverse consequences?

AvantCredit has provided evidence to show that before lending to Ms P, it asked her for information about her income, expenditure and carried out an affordability assessment. This involved it carrying out a credit check. Based on those checks AvantCredit thought it was fair to lend.

Ms P was entering into a significant commitment with AvantCredit. She was agreeing to make monthly repayments for a period of 4 years. So, I think it is right that AvantCredit wanted to gather, and independently check, some detailed information about Ms P's financial circumstances before it agreed to lend to her. I think that the checks it did were sufficient to achieve that aim. I think AvantCredit's checks on this occasion were proportionate.

Did AvantCredit make a fair lending decision?

I have concluded AvantCredit made proportionate checks. But simply performing proportionate checks isn't always enough. A lender also needs to react appropriately to the information those checks show. Those results might sometimes lead a lender to undertake further enquiries into a consumer's financial situation. Or, in some cases, the results might lead a lender to decline a loan application outright. This is what I think AvantCredit should have done here.

I agree with the investigator when she said Ms P was paying a significant amount of her income to credit commitments. Ms P had 4 loans to repay along with a large hire purchase agreement. This HP agreement also had a long term left that Ms P was committed to. Ms P also had an overdraft and a credit card too. This all meant that, once added to the monthly repayment of this loan, Ms P was paying such a significant proportion of her monthly income on credit repayments. AvantCredit ought to have realised it was unlikely Ms P would be able to sustainably repay her loan over the four-

year term in her circumstances at that time. On balance, I think AvantCredit should reasonably have concluded that it was not fair to lend to her.

AvantCredit needs to put things right.

Did AvantCredit act unfairly or unreasonably in some other way?

I've also thought about whether AvantCredit acted unfairly in some other way and I haven't seen any evidence that it did.

Putting things right

- refund all interest and charges Ms P paid on the loan;
- pay interest of 8% simple a year on any refunded interest and charges from the date they were paid (if they were) to the date of settlement†;
- remove any negative information about the loan from Ms P's credit file;

† HM Revenue & Customs requires AvantCredit to take off tax from this interest. AvantCredit must give Ms P a certificate showing how much tax it's taken off if she asks for one.

My final decision

For the reasons given above, I am upholding Ms P's complaint. AvantCredit of UK, LLC should put things right for Ms P as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 8 June 2022.

Mark Richardson
Ombudsman