

The complaint

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

What happened

This complaint is about 3 loans provided by AvantCredit to Mr K between March 2016 and March 2017. Mr K's borrowing history is as follows:

Loan	Date taken	Amount	Term	Repayment
1	August 2019	£1000	36 Months	£46.14
2	February 2020	£2000	24 Months	£122.37
3	July 2020	£2200	36 Months	£94.53

Our investigator upheld Mr K's complaint and thought he shouldn't have been given the loans. 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 Mr K's complaint. These two questions are:

1. Did AvantCredit complete reasonable and proportionate checks to satisfy itself that Mr K 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 Mr K 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 Mr K*. In practice this meant that business had to ensure that making the payments to the loan wouldn't cause Mr K 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 Mr K. 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 Mr K's complaint.

Did AvantCredit complete reasonable and proportionate checks to satisfy itself that Mr K would be able to repay loans in a sustainable way?

AvantCredit has provided evidence to show that before lending to Mr K on the 3 occasions it carried out checks. It asked Mr K to declare his income and expenditure. It verified his income on each occasion and carried out a credit search to check some of his expenditure. Based on those checks AvantCredit thought it was fair to lend.

Based on the term of the loans and repayment amounts, I don't think the checks were proportionate on each occasion. This is because Mr K had told AvantCredit he was in rented accommodation but then declared to it that he wasn't paying any rent. In addition to this the amount of credit commitments AvantCredit saw on its credit search on each occasion was a lot more than Mr K had declared his other expenses to be. I think AvantCredit ought to have carried out further checks on each occasion. This is so that it could assure itself that Mr K could afford the loan repayments for the loans in a sustainable way.

Mr K has provided copies of his bank statements from the time leading up to his application for loan 1 to AvantCredit and I have been also able to look at them. I can see that Mr K was paying a monthly amount of £675 for rent, something that AvantCredit didn't account for in its affordability assessment. On these statements there are also many gambling transactions. It is clear on seeing all of this that Mr K had a lot more in expenses going out than the verified monthly income he held. I think Mr K was having problems managing his finances at that time and if it had seen this, I think its more likely AvantCredit wouldn't have made a decision to agree to the first loan to him. Had AvantCredit carried out proportionate checks, it would have seen that the lending was unsustainable.

Mr K's finances did not improve in this short period of time between him taking out loan 1 and loans 2 and 3. Mr K was still gambling heavily and there was still a significant shortfall in the amounts he was spending and how much he was earning. So, it follows that I don't think that it should have given Mr K these loans either.

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 – what AvantCredit needs to do

- refund all interest and charges Mr K paid on loans 1 to 3;
- 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 loans 1-3 from Mr K's credit file;

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

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 27 June 2022.

Mark Richardson
Ombudsman