

Complaint

Mr W has complained about a loan AvantCredit of UK, LLC ("Avant Credit") provided to him. He says the loan was unaffordable.

Background

Avant Credit provided Mr W with a loan for £4,750.00 in April 2017. This loan was due to be repaid in 36 monthly instalments of just over £217.36. One of our adjudicators reviewed Mr W's complaint and he thought Avant Credit shouldn't have provided Mr W with his loan. Avant Credit disagreed, so the case was passed to an ombudsman for a final decision.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

We've explained how we handle complaints about unaffordable and irresponsible lending on our website. And I've used this approach to help me decide Mr W's complaint. Having carefully considered everything I've decided to uphold Mr W's complaint. I'll explain why in a little more detail.

Avant Credit needed to make sure it didn't lend irresponsibly. In practice, what this means is Avant Credit needed to carry out proportionate checks to be able to understand whether Mr W could afford to repay any credit it provided.

Our website sets out what we typically think about when deciding whether a lender's checks were proportionate. Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender to be able to show that it didn't continue to lend to a customer irresponsibly.

The credit check Avant Credit carried out before providing this loan to Mr W showed that he was heavily indebted and had a history of payday loans. In these circumstances, I think that Avant Credit needed to carry out further checks in order to ensure the monthly payments were affordable before lending to Mr W.

I think further checks would more likely than not have extended into finding out more about Mr W's expenditure. And if Avant Credit had done this here, I'm persuaded that it would have seen that Mr W was already in a difficult financial position at the time and also seen why this was the case. I'm also satisfied that reasonable and proportionate checks would more likely than not have shown Avant Credit that Mr W's existing precarious financial position was because he was struggling.

So I'm persuaded by what Mr W has said about already being in a difficult financial position at the time. And as reasonable and proportionate checks should have extended into finding out about Mr W's income and expenditure, I'm satisfied that they would more likely than not have shown Avant Credit that it shouldn't have provided this loan to Mr W. As Avant Credit provided Mr W with this loan, notwithstanding this, I'm satisfied it failed to act fairly and reasonably towards him.

Mr W ended up paying interest, fees and charges on a loan he shouldn't have been provided with in the first place. So I'm satisfied that Mr W lost out because of what Avant Credit did wrong and that it should put things right.

Fair compensation – what Avant Credit needs to do to put things right for Mr W

Having thought about everything, Avant Credit should put things right for Mr W by:

- refunding all interest, fees and charges Mr W paid on this loan;
- adding interest at 8% per year simple on any refunded amounts from the date they were paid by Mr W to the date of settlement†;
- removing any adverse information recorded on Mr W's credit file as a result of this loan.

My final decision

For the reasons I've explained, I'm upholding Mr W's complaint. AvantCredit of UK, LLC should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 17 May 2022.

Jeshen Narayanan
Ombudsman