

The complaint

Mr V complains that AvantCredit of UK, LLC lent to him irresponsibly.

What happened

Mr V took two loans. Here is a brief table of the loans approved for him. We have a little information about loan 1 from Mr V and we have not received any information about loan 1 from AvantCredit.

Loan ending	Date taken	Total amount to pay	Term in months	Monthly repayment (rounded)	Amount received by Mr V	Date repaid
1	13 June 2014				£2,100	likely December 2015
2	16 December 2015	£19,007.05	60	£317	£9,000.00	15/9/2017

Mr V has explained that he paid off loan 2 early by borrowing money from a parent.

Following Mr V's complaint in September 2021, AvantCredit have offered to settle loan 1 in line with the Financial Ombudsman Service recommendations, therefore I have not reviewed this loan as part of the complaint and mention it briefly later in this decision.

For loan 2 AvantCredit explained in its final response letter (FRL) that it carried out all the checks it ought to have carried out before approving loan 2 and so it did not think it had done anything wrong.

Mr V referred his complaint to the Financial Ombudsman Service where one of our adjudicators thought that loan 2 ought not to have been lent. He considered that a full and thorough financial review would have revealed that Mr V gambled a great deal. So, he considered that AvantCredit ought to put things right for Mr V.

AvantCredit has not responded to that view letter, so the unresolved complaint was passed 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 general approach to complaints about unaffordable/irresponsible lending - including all the relevant rules, guidance and good industry practice - on our website.

Taking into account the relevant rules, guidance and good industry practice, what I need to consider in deciding what's fair and reasonable in the circumstances of this complaint are whether AvantCredit completed reasonable and proportionate checks to satisfy itself that Mr V would be able to repay in a sustainable way? And, if not, would those checks have shown that Mr V would've been able to do so?

If I determine that AvantCredit did not act fairly and reasonably in its dealings with Mr V and that he has lost out as a result, I will go on to consider what is fair compensation.

The rules and regulations in place required AvantCredit to carry out a reasonable and proportionate assessment of Mr V's 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/or cause significant adverse consequences for Mr V. In practice this meant that AvantCredit had to ensure that making the payments to the loan wouldn't cause Mr V 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 V. 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 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 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 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 the arguments, evidence and information provided in this context and what this all means for Mr V's complaint.

Following Mr V's complaint in September 2021, AvantCredit offered to settle loan 1 and as its offer is in line with the Financial Ombudsman Service usual approach then I have not made a decision on it but having offered I do consider that AvantCredit needs to honour that uphold for loan 1.

AvantCredit has explained in its FRL as to why it did not consider that it had done anything wrong when approving loan 2. And we have received a brief account history from it, plus copies of the loan 2 credit agreement and its Affordability Report which includes its credit search results.

Loan 1 has been resolved and so I do not need to make a decision on it. Loan 1 is relevant when considering loan 2 as it was the first in the loan chain. Although I do not know much about loan 1, the proximity of the loan 1 approval date to the loan 2 approval date leads me to think that either it was a shorter term loan, or it was a loan for a longer term and was refinanced into loan 2. I do not know the reasons for AvantCredit deciding it had done something wrong in relation to loan 1.

Added to which, loan 2 was for much more money (£9,000) and for a five year (60 month) term where each month Mr V was going to be making a repayment of just under £317. This was a significant loan commitment of over £19,000 in total and for many years and as it was the second in the loan chain then I do consider that a more thorough investigation into Mr V's finances ought to have taken place before approving the loan.

From what AvantCredit has informed me about, and the brief business file documents it has sent us then it certainly did some research. But, I do consider that another layer of checking was proportionate in these circumstances surrounding Mr V's application for such a large loan relatively soon after having taken loan 1.

I note that the credit analysis in the Affordability Report AvantCredit has carried out on Mr V and sent to us does not list all his outstanding loans, but I am aware that not all credit agents have all the information about an individual at any one time. And that report compiled by AvantCredit does list the following details:

- 4 short term loans opened in last 6 months total value of which was £1,645
- £21,619 total balances on active accounts excluding Mortgages
- £14,753 total value of any fixed term active accounts (sector 1 & 2)
- £2,672 total monthly payments on all accounts excluding mortgages, 3 months
- £1,398 total monthly payments on all accounts excluding mortgages, 6 months
- £503 total monthly payments on all accounts excluding mortgages – which are currently active

And the Report also indicated that Mr V had opened 13 credit accounts in last 6 months and that his total limits now as a percentage of total limits 6 months ago was 156%.

So, in my view the overall picture was of a lot of debt which had been increasing and likely still was even though the monthly commitment may have been £503 by the time this Affordability Report was done and so may have looked manageable. Whereas 3 months before this monthly payment commitment was £2,672. And I think that this shows that AvantCredit had enough information to consider that before lending a second time, for five years and for a debt of over £19,000 then further checks were warranted.

There are no regulations which state that any lender needs to look at a customer's bank statements, but it is not an unusual practice for lenders to ask to see the last two months of statements leading up to the approval date. And here I do think that was an option for AvantCredit. There are other ways but often it's the most convenient method to check on an individual's finances.

I have been provided with copies of Mr V's bank statements for those months prior to December 2015 and it is plain to see that Mr V was gambling and spending money on betting or gaming websites regularly. The extent of that gambling was noticeable - Mr V

often was spending on such websites several hundred pounds each day.

Those bank statements also reveal that Mr V had obtained and was repaying several high cost short term loans and high cost loans.

I am not satisfied AvantCredit did the additional checks I consider were warranted and proportionate for this loan 2, and if it had Mr V has demonstrated to me that he had a serious gambling issue and so its likely AvantCredit would not have lent to Mr V.

Mr V has said in his complaint form that *'1. I was a problem gambler losing spending all my money on gambling 2. I was in a spiral of loans credit cards and payday loans that I could not afford' ...I appreciate it's my own fault for applying but if all these companies would have done more background checks I would not have been able to borrow all of the money.'*

And for the purposes of this complaint Mr V has demonstrated this to me and so I uphold his complaint about loan 2.

Avant Credit has already agreed to put things right for loan 1 and it needs to honour that FRL offer. I have not mentioned loan 1 in the 'putting things right' section of this decision, but that does not remove AvantCredit's obligation to put things right for loan 1.

Putting things right in relation to loan 2

To settle Mr V's complaint, AvantCredit needs to do as follows:

- add up the total amount of money Mr V received from AvantCredit for loan 2
- the repayments Mr V made should be deducted from this amount.
- if this results in Mr V having paid more than he received, any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement). *
- remove any negative information recorded on Mr V's credit file relating to loan 2

*HMRC requires AvantCredit to take off tax from this interest. It must give Mr V a certificate showing how much tax has been taken off if he asks for one.

My final decision

My final decision is that I uphold Mr V's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 15 July 2022.

Rachael Williams
Ombudsman