

The complaint

Mrs M complains AvantCredit of UK, LLC irresponsibly provided her with a loan.

What happened

AvantCredit provided Mrs M with a £4,800 personal loan in November 2015. The loan had instalments of around £160 across a 60-month term, with a total repayable value of around £9,530.

Around June 2022 Mrs M complained to AvantCredit saying it had irresponsibly provided her with the loan. She said it hadn't completed reasonable and proportionate checks to ensure the loan would be affordable to her across the full term. AvantCredit didn't uphold Mrs M's complaint issuing its final response in July 2022.

Our investigator reviewed the complaint and upheld it. She said AvantCredit's checks weren't reasonable and proportionate; but in any event the information it had obtained ought reasonably to have led to it concluding the loan was unsustainable for Mrs M to maintain; and therefore she concluded it hadn't made a fair lending decision when granting this loan.

AvantCredit didn't agree with our investigator's outcome. It said Mrs M would have been able to consolidate the majority of her existing credit accounts with this loan, and therefore reduce her monthly payments towards credit commitments. It said the checks it completed were reasonable and proportionate; and that it calculated Mrs M would be able to sustainably afford the loan. It therefore maintained its argument that it made a fair lending decision.

Our investigator reviewed the additional information AvantCredit presented but it didn't change her outcome. So, as an agreement couldn't be reached the complaint has been 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.

Having done so I've reached the same outcome as our investigator, and for broadly the same reasons.

We've set out our approach to complaints about irresponsible and unaffordable lending as well as the key rules, regulations and what we consider to be good industry practice on our website.

AvantCredit needed to take reasonable steps to ensure the lending it provided was responsibly lent to Mrs M. The relevant rules, regulations and guidance at the time AvantCredit lent required it to carry out reasonable and proportionate checks. These checks needed to assess Mrs M's ability to afford the loan and repay it sustainably over its term, without causing her financial difficulties or harm.

There isn't a set list of checks a lender needs to carry out, but they should be proportionate, considering things like the type, amount, duration and total cost of the credit, as well as the borrower's individual circumstances.

And it isn't sufficient for AvantCredit to just complete proportionate checks – it must also consider the information it obtained from these checks to make a fair lending decision. This includes not lending to someone in financial hardship; and ensuring repayments can be made sustainably without the need to borrow further.

AvantCredit has said it completed an income check and identified Mrs M's monthly income to be around £1,100; and that it used Office of National Statistics (ONS) data to estimate Mrs M's regular monthly expenditure, taking into account the average regular expenditure based on people with similar circumstances. AvantCredit also says it completed a credit check and obtained details about Mrs M's credit accounts and credit history.

AvantCredit says the information it obtained through these checks caused it no concern, or indicated that further checks were warranted; and as such it argues its checks were proportionate and that it went on to make a fair lending decision based on these checks.

I've carefully considered AvantCredit's arguments and having done so, I'm not persuaded it did complete reasonable and proportionate checks; or went on to make a fair lending decision in this instance.

I say this because the credit file obtained by AvantCredit shows Mrs M had 12 open lines of credit at the point of this application, totalling around £6,000. The lines of credit were spread across credit cards, mail order accounts, home credit loans and unsecured loans/instalment loans. Eight of these accounts and more than half of Mrs M's total indebtedness, around £3,350, had been obtained within six months of this loan.

So, in the very recent past Mrs M had opened a high number of credit accounts, and had more than doubled her total indebtedness, which could be further increased through her revolving credit facility limits. As such I'm not satisfied AvantCredit's checks were proportionate given what it knew about Mrs M's financial situation. I consider the increase in credit – and available credit – within such a short space of time, together with the types of credit accounts obtained ought to have been of concern to AvantCredit. And I therefore consider reasonable and proportionate checks ought to have led to it obtaining a full understanding of Mrs M's financial situation; by verifying her actual income and expenditure, as well as obtaining details of her existing credit commitments; to ensure this lending would be sustainably affordable for her.

I've not gone on to consider what reasonable and proportionate checks would likely have shown AvantCredit at the time of its lending decision. This is because I consider, based on the information it had already obtained, that AvantCredit ought reasonably to have identified that further lending, no matter its purpose, wasn't sustainable for Mrs M.

I consider the information within the credit file AvantCredit obtained at the point of the loan application suggests Mrs M was already showing signs of financial distress. As I've set out above, Mrs M had opened a high number of lines of credit within a short space of time, and a number of these lines of credit were home credit loans and what appear to be short term unsecured loans/instalment loans.

Our investigator noted that a number of the lines of credit AvantCredit suggests Mrs M would have consolidated were close to being repaid. Indeed, from the credit file information AvantCredit obtained it suggests that all three of the home credit loans would have been repaid within around nine months of this loan being approved, had the contractual payments

been maintained. So, by consolidating these home credit loans Mrs M would have been extending the repayment terms of these loans by a minimum of around 51 months.

The same is also true for one of the unsecured loans. From the information AvantCredit obtained at the point of the lending decision it appears that this loan would be repaid within around 14 months of this application; so, Mrs M would be extending the repayment term of this lending by around 46 months.

I don't consider Mrs M looking to extend the terms of these existing credit commitments over such terms to be of benefit to her. While I accept the home credit loans would have likely attracted a higher rate than this loan, these were being borrowed over a significantly shorter term. This loan had an APR of 37.1% and Mrs M would be repaying nearly £4,800 in interest towards this loan over the full term, roughly double the total amount advanced.

AvantCredit has said it didn't obtain details of the existing lines of credit Mrs M was looking to consolidate with this loan, but it has retrospectively calculated what this may have looked like. I accept this loan, although not at a value high enough to enable Mrs M to consolidate all of her existing debts, would cover the majority. However, AvantCredit didn't identify this information at the time, so in its own words it is *assumptive* and somewhat speculative whether Mrs M would have consolidated as it has suggested.

Taking into account the consolidation as AvantCredit has set out, Mrs M would still be paying around 35% of her monthly income towards repaying credit commitments on a monthly basis. I've come to this figure by calculating reasonable repayment terms for the revolving credit AvantCredit's proposed consolidation would still have left needing to be paid, as well as taking into account repayment of the unsecured loan and payments towards this loan. This is still a significant proportion of Mrs M's monthly income and I consider an unsustainable level, especially given Mrs M's recent credit activity.

Given Mrs M's recent pattern of borrowing, strongly suggesting a higher dependence on credit to meet her regular expenditure and existing credit commitments, I'm not satisfied that she would have been able to sustainably maintain payments towards this loan without having to take out additional borrowing. The use of short term unsecured loans and instalment loans, together with home credit loans, and the recent opening of revolving credit accounts (with a utilisation at around 80% at the point of this application) paints a picture of someone who wasn't managing their finances well as was reliant on credit.

It therefore follows I'm satisfied AvantCredit didn't make a fair lending decision when approving Mrs M with this loan.

Putting things right

As Mrs M's had the benefit of the lending, I think it's fair that she repays the principal amount borrowed. But Mrs M has paid interest and charges on a loan that shouldn't have been provided. So, I think Mrs M has lost out and AvantCredit of UK, LLC should put things right by taking the following action:

- Remove all interest, fees and charges applied to the loan from the outset. Any payments made by Mrs M should then be deducted from the new starting balance
 - a. If the payments Mrs M has made total more than the amount she was originally lent, then any surplus should be treated as overpayments and refunded to her, along with 8% simple interest* calculated on any overpayments made, from the date they were paid by Mrs M, to the date the complaint is settled
 - b. If after the adjustments have been made there is still a balance to pay

AvantCredit of UK, LLC should discuss arranging a suitable/affordable payment arrangement with Mrs M for the remaining balance

- Remove any adverse information recorded on Mrs M's credit file as a result of this loan, once any outstanding balance has been repaid

I understand the debt was sold to a third party in 2020. Therefore, AvantCredit of UK, LLC should ensure the above direction is taken by either liaising with the third party or by buying back the debt.

*HM Revenue & Customs requires AvantCredit of UK, LLC to deduct tax from this interest. AvantCredit of UK, LLC should give Mrs M a certificate showing how much tax it's deducted, if she asks for one.

My final decision

I'm upholding Mrs M's complaint about AvantCredit of UK, LLC and I direct it to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 14 July 2023.

Richard Turner
Ombudsman