

The complaint

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

What happened

Mr W took out two fixed sum loan agreements with AvantCredit. The first was in March 2016 and the second was in February 2018.

Mr W says he couldn't afford the credit. He says he struggled to pay it and so took a loan from another company to pay it off and then took the second loan from AvantCredit in 2018 to pay off the earlier reconsolidation loan. Mr W hasn't said what he thinks AvantCredit did wrong, but it is suggested that Mr W thinks it didn't check he could afford the borrowing before it provided it to him.

AvantCredit says it did all the necessary checks before it lent to Mr W and it didn't see anything which might make it think he couldn't afford the loans.

Our investigator considered that Mr W's complaint should be partially upheld. They thought that AvantCredit had completed necessary and proportionate checks in relation to the first loan but that in the case of the second loan it had failed to act fairly on the outcome of those checks.

Mr W accepted the investigator's view. AvantCredit disagreed with the view. It said that it agreed with the investigator's view about the first loan, but not the second one.

As AvantCredit did not agree, the complaint has been passed to me to make a decision.

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 and irresponsible lending - including the key relevant rules, guidance and good industry practice - on our website and I've taken that into account when considered Mr W's complaint.

Having done so, I have come to the same conclusion as our investigator. I will explain why I have reached this decision.

As both parties agreed with our investigator's finding in relation to the first loan I have not reconsidered that element of the view. Instead, I focus only on the second loan, ending x5238.

AvantCredit needed to take reasonable steps to make sure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr W could afford to repay what he was being lent in a sustainable manner. These checks could

take into account a number of different things, such as how much was being lent, the repayment amounts, how much borrowing Mr W had elsewhere and Mr W's income and expenditure. There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

AvantCredit said that it conducted checks to ensure that the credit would be affordable for Mr W when he took out the loan. It has provided some evidence of what it saw about Mr W's finances at the time. This shows that Mr W was very indebted. He had settled his first loan with AvantCredit two months earlier and had returned to borrow a further amount. His repayments to existing unsecured loans, his mortgage, and his proposed new loan repayments would have committed more than 60% of his net income each month. He also had unsecured loans in the form of revolving credit of over £8,800. Monthly sustainable repayments on this, which would allow Mr W to repay the credit in a reasonable time, would have been about £440 a month – a further 25% of his net income. I think that this level of indebtedness was entirely unsustainable. Mr W had very little money to pay for other essential outgoings, such as utilities, food and council tax. While I do not know for sure what those expenses amounted to I think it's likely Mr W had no disposable income left each month.

AvantCredit has highlighted that two of the loans on the list it provided of existing credit were not current. I have not included these in my calculations, so it does not make a difference to my conclusion. Further, AvantCredit has sought to suggest that Mr W could have used his loan to clear three of his credit accounts, reducing his credit card balances by 13%, making the loan more affordable.

While Mr W indicated that the loan was taken for debt consolidation, AvantCredit didn't attempt to find out which debts he was proposing to consolidate. And it didn't make the consolidation of any debts a condition of the lending. As such, AvantCredit didn't have any assurance that Mr W wouldn't just be adding to his overall debt.

On the basis of the information available to me, I am satisfied that AvantCredit acted unfairly on the outcome of its checks. I do not think that AvantCredit ought to have loaned Mr W the money.

Putting things right

ntCredit should not have provided the second loan to Mr W. To settle this complaint AvantCredit should do the following:

- Add up the total amount of money Mr W received as a result of having been given this loan.
- Subtract the repayments Mr W has made from this amount.
- If this results in Mr W having paid more than he received, any overpayments must be refunded along with 8% simple interest* calculated from the date the overpayments were made to the date of settlement.
- If any capital balance remains outstanding, AvantCredit should arrange an affordable and suitable payment plan with Mr W. If no such arrangement can be agreed, Mr W can return to this service to make a further complaint.
- Remove any negative information recorded on Mr W's credit file as a result of the interest and charges of the loan, but also to remove any negative information recorded on his credit file regarding the loan once the outstanding balance has been cleared.

*HM Revenue & Customs requires AvantCredit to deduct tax from any award of interest. It must give Mr W a certificate showing how much tax has been taken off if he asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

My final decision

I have decided that AvantCredit acted unfairly when it gave Mr W the second loan. To put things right I direct AvantCredit of UK, LLC to pay compensation as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 25 August 2023.

Sally Allbeury
Ombudsman