

The complaint

Mrs N complains that AvantCredit of UK, LLC trading as AvantCredit waited too long to close and default her loan. Mrs N also complains about inaccurate information recorded about the loan on her credit file.

What happened

The background to this complaint and my initial conclusions were set out in my provisional decision. I said:

Mrs N successfully applied for a loan with AvantCredit in March 2016. Mrs N maintained monthly payments until the end of September 2018 when the payment was missed. Mrs N continued to make her contractual monthly payments at the end of October 2018, November 2018, December 2018, January 2019, February 2019 and March 2019, when the last payment was made.

In the following weeks, Mrs N discussed payment arrangements and AvantCredit provisionally agreed to suspend interest and accept a reduced payment. But no further payments were made and AvantCredit ultimately took the decision to close Mrs N's loan and record a default on her credit file on 20 June 2019.

Last year, Mrs N complained that AvantCredit waited too long to close the loan and record a default on her credit file. Mrs N also complained that her loan was being reported with an earlier start date and arrears going back to 2017 with some of the credit reference providers. AvantCredit issued a final response on 12 October 2023 and advised the decision to default the loan in June 2019 reflected the way payments had been made. AvantCredit added that it wasn't reporting any arrears for the loan from its start date until September 2018. AvantCredit advised it would reach out to the credit reference agency in question to challenge the data being reported.

Mrs N's case was upheld by an investigator at this service. They thought AvantCredit had fairly challenged the data recorded with the credit reference agencies. But the investigator thought AvantCredit should've applied its default and closed Mrs N's loan in December 2018 and asked it to back date the default date reported.

AvantCredit asked to appeal and said the investigator's recommendation was at odds with other cases the Financial Ombudsman Service has considered and industry guidance. As AvantCredit asked to appeal, Mrs N's case has been passed to me to make a decision.

What I've provisionally 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.

As Mrs N's case falls broadly into two parts, I'll look at each in turn – starting with the date AvantCredit closed the loan and recorded the default. The Information Commissioner's Office (ICO) issues guidance to businesses setting out when it may be appropriate to record

a default on a borrower's credit file. The guidance can be found in full on the ICO's website. It says a default normally occurs when a customer hasn't met the terms of a credit agreement and the account is between three and six months in arrears. I've taken this guidance into account when reaching my decision.

Mrs N's first missed payment occurred at the end of September 2018, so at that point she was one payment in arrears. But whilst that payment wasn't made up, Mrs N made her full contractual monthly payments in the months that followed, with the last payment being received by AvantCredit on 28 March 2019. At that point, Mrs N's account remained one month in arrears.

I can see that AvantCredit attempted to contact and discuss the arrears and potential arrangements with Mrs N. A payment arrangement for £170 was discussed. But no further payments were received by AvantCredit after 28 March 2019. When April 2019 and May 2019's payments weren't made, that placed Mrs N's loan a full three months in arrears. And AvantCredit called time on the loan and closed it at default on 20 June 2019, shortly before the next payment was due.

I'm very sorry to disappoint Mrs N but I'm satisfied AvantCredit's approach was fair and in line with the ICO guidance. When the loan was closed it was around three payments in arrears which is in line with the ICO guidance and what I'd normally expect.

I would add that if AvantCredit had closed the loan in December 2018, it would have only been one payment in arrears at the time. And given Mrs N was continuing to make her normal monthly payment in the following months, I think it would've been premature for AvantCredit to have closed and defaulted Mrs N's loan in December 2018.

As I haven't found grounds for AvantCredit to have closed and defaulted Mrs N's loan at an earlier point, I don't intend to tell it to backdate Mrs N's default to December 2018. I'm satisfied the default date of 20 June 2019 accurately reflects how the loan was administered by Mrs N.

I understand there have been discrepancies in the start date for Mrs N's loan, arrears history and closure date with one of the credit reference agencies. But AvantCredit has forwarded systems evidence that shows what it is reporting on Mrs N's credit file, including the start date, all payments made and date of closure. The information shows the start date is being correctly reported. No missed payments before September 2018 are recorded either. And the default date of 20 June 2019 is being correctly reported too. So it does appear the discrepancies may be an issue that the credit reference agency in question needs to investigate further. I can also see that AvantCredit has contacted the credit reference agency in question and asked it to update and correct its records. That's in line with what I'd expect a lender to do when information isn't being correctly reported about a customer's account.

If the incorrect information isn't corrected, Mrs N has the right to raise this issue directly with the credit reference agency. But I'm satisfied that AvantCredit is accurately reporting the start date, payments and default date of Mrs N's loan. As a result, I haven't found grounds to tell it to take further action.

I'm sorry to disappoint Mrs N but for the reasons I've noted above I haven't been persuaded to uphold her complaint.

I invited both parties to respond with any additional points or comments they wanted me to consider before I made my final decision. Mrs N responded to say she remained of the view that AvantCredit had waited too long to apply the default to her loan. Mrs N also said that basic information, like the loan start date, remained incorrect on her credit file. AvantCredit

responded to confirm it had nothing further to add.

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.

As I set out in my provisional decision, my view is that AvantCredit waited a reasonable period before applying the default to Mrs N's loan. The loan initially fell behind by one payment from September 2018 onwards and remained in arrears for some months. Mrs N made her contractual monthly payments from that point until the more payments were missed in April and May 2019. I'm satisfied that June 2019 was a reasonable point for AvantCredit to apply the default and close Mrs N's account, for the reasons set out in my provisional decision.

Mrs N's told us her credit file still contains incorrect information about the start date of the loan and when arrears began. As I set out in my provisional decision, I'm satisfied AvantCredit is reporting the correct details and has challenged the information on Mrs N's credit file with the relevant credit reference agency. If the problem persists, Mrs N has the ability to refer it to the credit reference agency directly to investigate and raise her concerns.

I'm sorry to disappoint Mrs N but I haven't been persuaded to change the conclusions I reached in my provisional decision. I remain of the view that AvantCredit dealt with Mrs N fairly and defaulted her loan after a reasonable level of arrears had built. As a result, I'm not telling AvantCredit to take any further action.

My final decision

My decision is that I don't uphold Mrs N's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs N to accept or reject my decision before 3 July 2024.

Marco Manente
Ombudsman