

The complaint

Mr G complains about credit granted to him by Euphoria Finance Limited.

What happened

Euphoria agreed credit for Mr G in April 2021 to finance a car. The cash price of the car was £5,995. Mr G paid a deposit of £500 and borrowed £5,495. The total amount owed under the agreement came to £11,907 including interest and fees. Mr G paid a document fee of £250 and the remainder was to be repaid in 59 instalments of £184.70 and a final payment of £259.70.

The credit was granted under a hire purchase agreement. This meant Euphoria remained the owner of the car until the credit was repaid. Mr G has met his repayments to date and has paid £5,182.80 in total as of the 31 May 2023.

Mr G complained to Euphoria that the repayments weren't affordable and it should have realised that when it assessed his application, given his credit record. He said that he had significant existing debt at the time with three active county court judgements. Mr G said that he's fallen behind with his priority debts trying to keep up the repayments and has borrowed from friends and family.

Euphoria didn't uphold Mr G's complaint. It said that it carried out reasonable and proportionate checks to ensure the agreement was affordable for Mr G. These included checking his wage slips, bank statements and his credit record.

Mr G referred his complaint to us and one of our investigators looked into it. They didn't recommend that it be upheld because it seemed Mr G would have enough disposable income to meet his repayments.

Mr G didn't agree with this recommendation. He asked for his complaint to come to an ombudsman for a review and it came to me. I issued a provisional decision on 22 June 2023 explaining why I planned to uphold Mr G's complaint and setting out my proposals for putting things right for him. This is my final decision on the matter and will be legally binding on both parties should Mr G choose to accept it.

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.

Both parties have let me know that they've accepted my provisional decision and have nothing further to add. Having reconsidered everything again and having no further comment or information to consider, my view of the complaint remains unchanged. For completeness, I'll set out my reasons for upholding it again in this final decision on the matter.

The Financial Conduct Authority was the regulator when Euphoria lent to Mr G. Its rules and guidance said that before agreeing credit for him, Euphoria needed to check that he

could afford to meet his repayments out of his usual means, without having to borrow further and without experiencing financial difficulty or other adverse consequences. The assessment needed to be proportionate to the nature of the credit (the amount and term, for example) and to Mr G's particular circumstances. Euphoria needed to give "proper regard to the outcome of that assessment in respect of affordability risk."

Ultimately, Euphoria needed to treat Mr G fairly and take full account of his interests when making its lending decision. It would not be lending fairly if "it targeted customers with regulated credit agreements which are unsuitable for them, by virtue of their indebtedness, poor credit history, age, health, disability or any other reason."

With this in mind, my main considerations are did Euphoria complete reasonable and proportionate checks when assessing Mr G's application to satisfy itself that he would be able to make his repayments sustainably? If not, what would reasonable and proportionate checks have shown? Would this information have led to the credit being declined? Ultimately, did Euphoria make a fair lending decision?

Euphoria provided the information it relied on which included a copy of Mr G's credit file, his bank statements and evidence of his income. The credit file information showed that Mr G had existing debts of £10,300. These included a hire purchase agreement and seven credit card accounts. Mr G had defaulted on two of these – one in 2015, the other in 2019. In addition, Mr G had three active county court judgements: £1,675 was awarded against him in 2015; £4,581 in 2016 and £8,231 a few months earlier in January 2021.

Mr G had two jobs at the time. He was employed by a company and received a wage and he was self-employed and charged for his time. Euphoria checked Mr G's recent payslip from his employer (dated 13 March) and a recent invoice he'd submitted in his self-employed role (dated 21 March). It said the former showed a net pay of £879.20 and the latter a credit balance of £275. Euphoria listed Mr G's current account balances in its final response to him which suggests to me it considered deposits into his account other than the above income when making its lending decision. Mr G's current account had a balance of over £3,300 in mid-March 2021. Euphoria said it concluded that the finance would be affordable for Mr G because his discretionary spending was sufficient to cover the monthly payments without experiencing financial difficulty.

I think Euphoria gathered a reasonable level of evidence to check if Mr G could afford his repayments but I think the information should have caused it concern for two reasons. Firstly, while Mr G's account showed a relatively high balance this was primarily because of two deposits – a £2,000 deposit on 19 February from the local county council and £1,000 from a personal bank account on 12 March. I don't think Euphoria should have considered these funds as part of Mr G's usual means without further investigation. Secondly, I think there were indications in the information Euphoria had that Mr G was overindebted and had ongoing difficulty managing his debt. As mentioned, he had a recent judgement for over £8,000 and had other debts in addition to those showing on his credit file including one with a short term high cost lender. Altogether, I think Euphoria should have looked into Mr G's circumstances further before lending to him.

Mr G told us that the money from the council was from the government's income support scheme for self-employed people during the pandemic. He also told us that his late mother left him an amount of £2,200 and the £1,000 transfer to his account was part-payment of this. I don't think Euphoria should have taken these deposits into account as it seems they were one-off payments.

The invoice Euphoria relied on showed that Mr G was paid for work which was specific to schools. Mr G told us that his self-employed contract work didn't cover the school holidays,

which seems plausible. I've noted payments to HMRC on the statements so any payments into the account from this source were likely to include tax. Euphoria saw two payslips which showed that Mr G's wages from his paid employment fluctuated, being £618 and £879 in February and March 2021 respectively. So I think Mr G's usual income came to less than the figures Euphoria relied on.

I haven't seen an estimate of Mr G's expenses from Euphoria. I've estimated that his usual expenses came to about £1,100 a month based on the bank statements. This figure includes rent at £320, bills at £290, debt repayments at £140 and food (supermarket shops) and petrol at about £350. I think it's more likely than not that Mr G would struggle to meet his repayments for this finance out of his usual means. Euphoria should have suspected this from the information it had and would likely have confirmed this through a proportionate check.

Mr G told us that his debts at the time amounted to over £25,000. He's provided statements for five accounts with a national debt collector amounting to over £20,000. Mr G provided evidence of his council tax arrears at the time and his current arrears with his rent and heating bills. I think Euphoria didn't treat Mr G fairly and with full regard to his interests when it agreed this finance for him as it should have seen that he was overindebted and further debt was likely to contribute to his financial difficulties.

Altogether, I think Euphoria was irresponsible to enter into the agreement with Mr G.

I understand that Mr G has kept up his repayments to date. He says that he struggled to meet his repayments when the money he'd inherited was spent and he borrowed money from friends and family to cover the payments. A recent copy of his credit file shows that Mr G's opened another five credit card accounts since the agreement began and, as mentioned, he's in arrears with his rent and heating bills. While Mr G successfully met his repayments I don't think in this case that he managed to do so without borrowing from elsewhere and while meeting his existing commitments. I think the agreement had an adverse impact on him and Euphoria needs to take steps to put things right.

Putting things right

The cash price of the car was £5,995 and the total amount owed under the agreement came to £11,907. So far (as of May 2023) Mr G has repaid £5,182.80, including his deposit of £500 and the document fee of £250.

Our usual way of putting things right where credit has been irresponsibly agreed is that the borrower should repay the capital borrowed, as they've had the use of this, but should not be liable for any interest or charges owed under the agreement. If Mr G had repaid more than the cash price of the car, for example, I'd likely direct Euphoria to refund any overpayments and transfer ownership of the car to him.

In this case, Mr G has almost repaid the money he borrowed (£5,495) and is a few payments away from fully repaying the cash price of the car. I think it would be fair and reasonable in the circumstances of this case to cap the amount Mr G needs to repay under the agreement at the cash price of the car and to transfer ownership of the car to Mr G when this amount is paid.

In summary, Euphoria should now:

- Cap the total amount owed under the agreement to the cash price of the car, in other words £5,995;

- Consider all payments Mr G made under the agreement as payments towards this cash price;
- Treat Mr G sympathetically and fairly if he is unable to sustainably keep up his repayments at the current level and come to an affordable repayment plan with him for the outstanding balance;
- Transfer ownership of the car to Mr G once the balance (of £5,995) has been paid;
- Remove all adverse information about this account from Mr G's credit file up to the point the complaint is resolved.

My final decision

For the reasons I've set out above, I'm upholding Mr G's complaint about Euphoria Finance Limited and it now needs to put things right for him as I've said.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 2 August 2023.

Michelle Boundy
Ombudsman