

The complaint

Mr J complains that Advantage Finance Ltd (AF) failed to complete adequate checks prior to approving a Hire Purchase agreement for him.

In addition, Mr J doesn't think he was treated with forbearance when he struggled to make his repayments following a change in his circumstances.

Mr J is represented in this complaint by a professional representative but, for ease, I'll refer to Mr J directly throughout my decision.

What happened

In August 2021, Mr J acquired a car financed through an agreement with AF.

The cash price of the car was around £8,400. Mr J was required to make 59 monthly repayments of £278.10 before a final repayment of £478.10 in month 60 to account for a purchase fee.

Mr J missed his scheduled repayments on four occasions throughout the first 26 months of the agreement, on each occasion making a card payment soon after the due date, bringing the account up to date. The agreement is still ongoing.

In October 2023, Mr J complained to AF that by not completing sufficient creditworthiness assessments, they'd failed to establish the finance was unsuitable for him. He also said he'd not been treated with forbearance and due consideration when finding himself in arrears.

AF didn't uphold Mr J's complaint. They said at the point of application they verified Mr J was earning £2,000 a month and they used statistical data and his existing credit commitments at the time to estimate the level of Mr J's non-discretionary expenditure. After adding a buffer, AF were satisfied the loan was affordable.

In addition, AF said Mr J had maintained his agreement well up to that point and while he'd missed some payments, they'd been provided reasons for the delays, and they'd not been notified of any concerns regarding affordability prior to the complaint.

Mr J remained unhappy, so he referred his complaint to the Financial Ombudsman Service.

One of our Investigators looked into things and said given the information AF saw when completing their checks, she thought the level of checks completed were reasonable and proportionate and that the lending decision was fair. She also didn't think AF did anything wrong throughout the service they've provided Mr J since the agreement was taken out.

Mr J didn't agree with our Investigator's opinion saying AF should've considered the length and amount of the lending alongside his previous defaults when approving the agreement.

Because no agreement could be reached, this 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'm not upholding Mr J's complaint for broadly the same reasons as our Investigator. I'll explain why.

How we handle complaints about irresponsible and unaffordable lending is explained on our website. It's this approach I've used when deciding Mr J's complaint. AF needed to ensure they didn't lend irresponsibly which in practice, means they needed to carry out proportionate checks to be able to understand whether any lending was affordable and sustainable for him before agreeing to provide the finance.

The rules that apply to credit agreements are set out in the FCA's consumer credit sourcebook (CONC). Section 5.2A of CONC is relevant here, as – among other things – it talks about the need for businesses like AF to complete reasonable and proportionate creditworthiness assessments before agreeing to lend someone money.

I've considered these rules by asking the following questions:

- 1) Did AF complete reasonable and proportionate checks to satisfy themselves Mr J would be able to meet the repayments of the borrowing without experiencing significant adverse consequences?
 - If they did, was their decision to lend to Mr J fair?
 - If they didn't, would reasonable and proportionate checks have shown that Mr J could sustainably repay the borrowing?
- 2) Did AF act unfairly or unreasonably in some other way?

Did AF complete reasonable and proportionate affordability checks?

What's considered reasonable and proportionate in terms of the checks a business undertakes will vary dependant on the details of the borrowing and the consumer's specific circumstances at the time.

AF said they completed a full credit file check and automatically verified Mr J's stated monthly income of £2,000 successfully. They also said they'd used statistical data and the information gained from that credit check to estimate Mr J's expenditure.

CONC 5.2A.17 (2) says a business must take reasonable steps to determine the amount, or make a reasonable estimate, of a customer's non-discretionary expenditure. CONC 5.2A.19 goes on to say a firm may take into account statistical data unless it knows or has reasonable cause to suspect that the customer's non-discretionary expenditure is significantly higher than described in the data or that the data's unlikely to be reasonably representative of the customer's situation.

AF said Mr J told them he was married and living in rented accommodation. When estimating his expenditure, AF said their estimates included payments for rent, council tax and utilities before factoring in his commitments to existing debts. They also applied a generous buffer to allow for other spending he may have had before deciding the maximum affordable monthly repayment they would allow was around £450, much higher than the actual repayment they went on to agree. I haven't seen anything which suggests it was

inappropriate for AF to rely on the data it used.

AF have provided us a copy of the credit report they received. It showed Mr J had nine lines of credit with a total indebtedness of £722. The report showed Mr J hadn't missed or been late making any repayments and I've not seen any other indications on the report to suggest AF should've been concerned he might be in financial difficulties at the time.

Mr J has said that the size and the term of the loan, alongside previous defaults meant AF's checks weren't proportionate but, looking at the credit report AF relied on, they couldn't see any previous defaults. And I can't say they should've been concerned about something they weren't aware of.

AF verified Mr J's stated income and used statistical data alongside data from his credit report to calculate his disposable monthly income as being around £1,050. AF applied a buffer to allow for any unaccounted household expenses leaving around £450 as being the amount they considered affordable for the agreement. Mr J went on to take out finance which saw him needing to pay around £280 a month.

Overall, I haven't seen anything to suggest the checks AF carried out weren't proportionate considering Mr J's circumstances.

I've therefore gone on to consider whether I think they made a fair lending decision when approving the credit agreement for Mr J.

Did AF make a fair lending decision?

As I've explained above, AF's estimated expenditure, which I'm satisfied they were entitled to rely on, showed Mr J's income left him with a high level of disposable funds. However, their expenditure estimates only included rent, council tax and utilities. AF then allowed for a buffer of around £600 a month to account for other household expenses such as food and fuel, insurance, vehicle tax, phones and TV amongst other things after which, he would still be left with a surplus of around £170 each month once the agreement started.

AF's estimates took into account Mr J circumstances, that he was married and in rental accommodation at the time of the application and factored in his postcode to consider statistical data more relevant to his residential address. I think it's reasonable for AF to have done this as it's more likely than not the costs he would incur would be shared with his wife.

Mr J has said himself that his circumstances changed during the term of the agreement. He said he found it difficult to manage all the monthly payments from his salary when the income his wife received reduced during her maternity leave. But I've seen no evidence AF were made aware this would be the case and I'm satisfied the finance was affordable based on the information available to AF at the time.

I understand Mr J has said his income also dropped following the start of the agreement, but again I've not seen anything to suggest AF were made aware this might be a possibility. So it's not reasonable to say they should have taken the drop in income into account when assessing the affordability of the agreement. Mr J has also provided an income and expenditure but in it he has included clearing his existing debt balance in full each month which he wouldn't have needed to have done. I think AF acted reasonably by instead allowing for a percentage of debt repayment each month when reaching the decision they did.

Taking into account all the information available to AF, I'm satisfied the loan was affordable and as such, they made a fair lending decision by agreeing the finance.

Did AF act unfairly or unreasonably in some other way?

Mr J missed four payments prior to raising his complaint and on each occasion brought the account up to date shortly after the payments had been due. On each occasion I can see AF were informed the due date of the payment was causing issues as it was being taken prior to his income being received. I can see amendments were made to the due date to assist him going forward.

On one occasion in March 2022, when Mr J advised AF he was struggling financially, he asked to miss one payment as he'd had some additional expenditure due to a family emergency. At the time AF discussed looking to accept a reduced payment subject to conducting some affordability checks however Mr J asked for a week to bring the account back up to date.

Overall, I've not seen anything to suggest AF ought to have been aware of Mr J experiencing more widespread financial difficulties. I'm satisfied based on the information available to them at the time, they treated him with forbearance and due consideration.

My final decision

For the reasons I've explained above, my decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 25 April 2024.

Sean Pyke-Milne
Ombudsman