

The complaint

Mr P complains through a representative that Auto Accept Finance Limited (“AAF”) didn’t take reasonable steps to ensure he could afford the repayments towards a hire purchase agreement.

What happened

In October 2023, AAF provided Mr P with a hire purchase agreement for a used car. The vehicle had a retail price of £6,750 but Mr P put a £2,500 deposit down meaning £4,250 was financed. If Mr P made repayments in line with the credit agreement, he would need to repay a total of £9,171.80.

This agreement was to be repaid through 37 monthly instalments, the first instalment was for £250 followed by 35 monthly repayments of £176.30 and then a final instalment of £251.30. Based on the statement of account an outstanding balance remains due.

AAF considered Mr P’s complaint and didn’t uphold it because it concluded adequate checks were conducted which showed the agreement to be affordable.

Mr P’s complaint was considered by an investigator, and she didn’t uphold the complaint. She said the checks carried out by AAF which included a credit search and a review of the last 12 months of bank statements through an open banking report didn’t give it any concerns. The investigator concluded based on the information APP had to hand that the agreement was affordable.

Mr P’s representative responded and didn’t agree with the outcome, in summary it said.

- Mr P said he had three County Court Judgements (CCJs) at the time and owed another car finance company around £9,000 on a defaulted account.
- He also had other lending at the time and was making repayments to a friend who had lent £5,000 to cover the cost of the deposit for the car.
- Mr P was gambling at the time and was withdrawing cash to pay for it.
- Mr P was working part time and in receipt of benefits at the time so couldn’t afford the credit commitments he already had.

AAF also responded to the assessment saying that to date all of Mr P’s payments have been made and the loan account was up to date.

These comments didn’t change the investigator’s assessment and so the complaint has been passed to me to review.

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 explained how we handle complaints about irresponsible and unaffordable lending on

our website. And I've used this approach to help me decide Mr P's complaint. Having carefully thought about everything I've been provided with; I'm not upholding Mr P's complaint. I'd like to explain why in a little more detail.

AAF needed to make sure that it didn't lend irresponsibly. In practice, what this means is that AAF needed to carry out proportionate checks to be able to understand whether any lending was sustainable for Mr P before providing it.

Our website sets out what we typically think about when deciding whether a lender's checks were proportionate. Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify that information – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low, the amount lent was high, or the information the lender had – such as a significantly impaired credit history – suggested the lender needed to know more about a prospective borrower's ability to repay.

AAF as part of the application process carried out a credit search and then used open banking to establish Mr P's likely income and outgoings.

As a starting point, AAF as the lender was entitled to rely on the information Mr P gave in his application – unless AAF knew, or ought to have known that what he declared was inaccurate. Having reviewed everything, I've not seen anything to have alerted AAF that information either Mr P declared or what it used for its affordability assessment was inaccurate. Based on the information gathered from Mr P, and the results of its own checks the loan looked affordable.

AAF as part of its assessment appears to have gathered information from Mr P's bank account through an open banking report. In this case, it doesn't appear that AAF had sight of the copy bank statements instead it appears that it used some type of software to analyse the information that it could see in the bank statements over the last year in order to establish Mr P's average monthly income and outgoings.

In my view this is a proportionate check and so as I've said above, AAF could rely on the results unless it was provided with any other information which contradicted what it was told. I can see that Mr P's representatives has been provided with a copy of the report AAF received – so it is aware of what AAF saw.

Based on the information AAF discovered from the open banking report it believed Mr P's average monthly income over the previous 12 months was £2,300. And this was broken down to being just over £1,400 from wages and the remaining from benefits payments. I don't think it was unreasonable for AAF to have included the benefit payments into Mr P's monthly income, after all it was money that he was receiving that went towards his living costs.

From the report, it also worked out that his living costs – so items such as utilities, rent, and food came to on average just under £1,200 per month. Based on the results of the open banking report AAF fairly concluded that Mr P would be in a position to afford the repayments.

Mr P has said he was gambling at the time, I'm sorry to hear about this and I understand he has now sought help for this, which I'm pleased to hear about. The open banking report picked up on some gambling, but not to the extent that it would've led it to conclude that the loan wasn't affordable or that it needed to ask Mr P further questions.

Whereas, Mr P has said he was taking funds out in cash to gamble and was using his credit card. But I wouldn't have expected AAF to have known about the gambling on Mr P's credit card as it would've been disproportionate for it to ask for the statements.

AAF also carried out a credit search and it's provided a copy of the results that it received from the credit reference agency. He had a personal loan that he had opened in May 2023 that was costing him £133 per month to repay and he also had a credit card, that was well within its credit limit. The payments on his active accounts were up to date with no arrears being reported – indicating he was managing his existing creditors.

AAF was aware of two defaulted accounts, both credit cards and both from January 2019 – so nearly five years before the loan was approved. One of the defaults had been satisfied in December 2021 while the other one Mr P was appeared to be making monthly repayments of £10 towards the balance.

Finally, AAF was aware of two CCJs – however only one was active as one had been settled. The outstanding CCJ had a judgement amount of £396 and had been recorded almost three years before this loan was granted. Although there was an active CCJ, given the lack of other recent adverse payment information and the credit file suggested Mr P was managing his accounts well, I don't think this would've prompted AAF to carry out further checks.

I appreciate Mr P says he had three CCJs at the time, and in the past had problems repaying another car finance company. But that information wasn't reflected in the information AAF received. And as I've said above, AAF could only make its decision based on the information that it had available to it at the time.

Overall, I'm satisfied the checks AAF carried out were proportionate and the information it received wouldn't have prompted it to have gone further with its checks. The checks also indicated Mr P would be in a position to afford the repayments he was committed to making. Given these circumstances I am not upholding Mr P's complaint.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think AAF lent irresponsibly to Mr P or otherwise treated him unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

An outstanding balance remains due, and I would remind AAF that if Mr P needs any help and support that it treats him fairly and with forbearance.

My final decision

For the reasons I've outlined above, I am not upholding Mr P's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 20 September 2024.

Robert Walker
Ombudsman