DRN-4923109

The complaint

Mr B complains that AutoMoney Limited trading as AutoMoney Motor Finance (AutoMoney) irresponsibly granted him two hire purchase agreements that he couldn't afford to repay.

What happened

In June 2020 Mr B acquired a vehicle financed by a hire purchase agreement from AutoMoney. Mr B was required to make an initial payment of £364 followed by 46 monthly repayments of £315 and a final payment of £414. There was also an option to purchase fee of £99. The total amount repayable under the agreement was £15,268.

In January 2021 Mr B settled the existing agreement and acquired another vehicle financed by a hire purchase agreement from AutoMoney. Mr B was required to make an initial payment of £447.40 followed by 46 instalments of £398.40. There was also an option to purchase fee of £99. The total amount repayable under the agreement was £19,271.20.

Mr B believes AutoMoney failed to complete adequate affordability checks in both instances. Mr B says that if it had it would've been clear the agreements weren't affordable at the time and that his disposable income was being depleted by gambling transactions.

AutoMoney disagreed. It said it carried out an adequate assessment for each agreement which included a full credit search, affordability assessment calls with underwriting staff to understand Mr B's expenditure, and payslips for each agreement to verify his income. It assessed that both agreements were affordable for Mr B's circumstances and didn't think that any of its checks showed any signs of concerns around gambling.

Our Investigator didn't recommend that the complaint should be upheld. They thought AutoMoney's checks were proportionate in both instances and that none of the information it gathered at the time suggested the lending shouldn't have been approved.

Mr B didn't agree. He felt that AutoMoney's checks failed to adequately consider the fact that he was the sole earner in his household, cared for his father and significantly contributed to the household expenses. He felt that AutoMoney should have requested bank statements as further verification, and his gambling concerns at the time whilst not disclosed to AutoMoney should have prompted it to conduct more thorough checks. Mr B asked for an Ombudsman to issue a final decision on the matter.

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.

Where evidence is incomplete, inconsistent, or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available evidence and wider circumstances.

We explain how we handle complaints about irresponsible and unaffordable lending on our website. I've used this approach to help me decide Mr B's complaint. AutoMoney needed to ensure that it didn't lend irresponsibly as per the rules set out in the FCA's Consumer Credit Sourcebook (CONC). In practice, what this means is that AutoMoney needed to carry out proportionate checks to be able to understand whether any lending was affordable for Mr B before providing it.

In this case, there are two overarching questions that I need to answer to fairly and reasonably decide Mr B's complaint. These two questions are:

1. Did AutoMoney complete reasonable and proportionate checks to satisfy itself that Mr B would be able to repay his loans without experiencing significant adverse consequences?
- If so, did it make a fair lending decision?
- If not, would those checks have shown that Mr B would've been able to do so?

2. Did AutoMoney act unfairly or unreasonably in some other way?

Did AutoMoney complete reasonable and proportionate affordability checks?

AutoMoney was required to ensure it carried out adequate checks on Mr B's ability to sustainably afford the agreement. These checks had to be borrower-focussed and proportionate (see CONC 5.2A). What is considered proportionate will vary depending on the circumstances, such as (but not limited to): the total amount repayable, the size of the monthly repayments, the term of the agreement (CONC 5.2A.20 R), and the consumer's specific circumstances.

AutoMoney says that both of Mr B's applications underwent credit and underwriting checks, full income and expenditure conversations and verification of declared income. AutoMoney also asked Mr B questions directly about certain information found on his credit file.

For the initial agreement AutoMoney's checks showed historic defaults and an active account which was in arrears at the time of completing checks. When queried Mr B explained that this was a communications account which he was actively disputing due to an issue with a returned mobile phone. I'm satisfied that this was a plausible reason provided by Mr B which AutoMoney had no reason to query any further. AutoMoney obtained payslips for both jobs Mr B declared at the time and used the lowest recorded net pay possible. I'm satisfied his income was verified.

Regarding Mr B's expenditure, I can see that AutoMoney completed a full expenditure check with Mr B over the phone where he explained that he was living with parents and listed his contributions to the household expenses. At times where the amounts quoted by Mr B were lower than the statistical average AutoMoney relied instead on the available statistical data, which I'm satisfied is a reasonable method of trying to ensure affordability for Mr B.

The records available state that Mr B said that his grocery spending was provided by his parents, which based on the information he'd provided to AutoMoney also sounded plausible. In total his expenditure was recorded by AutoMoney as £1,634.25. As his income was found to be at least £2,202.23 a month this left around £252.98 disposable income once the agreement had been factored in.

For the second agreement AutoMoney's checks again showed historic defaults and two active accounts which were in arrears at the time of completing checks. When queried, Mr B explained that this was the original communications account which he was actively disputing due to an issue with a returned mobile phone, and one other account which he'd missed payment of due to his payday being ten days after the due date.

I'm satisfied that these were plausible reasons provided by Mr B which AutoMoney had no reasons to query any further. Mr B declared two incomes again but explained that both were being paid into his sister's bank account. AutoMoney therefore understandably wanted to verify this further and requested screenshots of the transactions. I don't have copies of these screenshots, but on balance I'm satisfied that they were most likely submitted and supported Mr B's declared income – as it was a requirement for the finance to be approved and because neither party has disputed this detail after our Investigator made the same finding.

Regarding Mr B's expenditure in this instance, I can see that AutoMoney again completed a full expenditure check with Mr B over the phone. Mr B explained that he was living with his parents still and listed his contributions to the household expenses. The records show Mr B said that his grocery spending was still mostly provided by his parents, but that he now contributed £50 to this amount. In total his expenditure was recorded by AutoMoney as £1,593. As his income was found to be at least £2,800 a month this left around £800 disposable income once the new agreement had been factored in.

From the information AutoMoney had gathered I think its estimation of Mr B's disposable income in both instances was reasonable. I say this because it had taken specific costings of his existing credit commitments from his credit file and had asked him directly each time for details regarding his overall income and expenditure. This meant that AutoMoney estimated Mr B had around £250 and £800 of disposable income respectively after accounting for each agreement. It ultimately decided on this basis that the agreements were affordable.

Given the size of the lending, the monthly repayments, the length of agreements, and the information in Mr B's credit file, I think AutoMoney's checks for both agreements were proportionate. I acknowledge that its initial searches contained potential indicators of financial difficulty – missed payments, historic defaults, and arrears with communication providers. But in both instances, it then went on to complete a detailed income and expenditure check with Mr B over the phone to ensure the agreement was affordable. It also queried with Mr B why there were missed payments recorded. The responses Mr B provided around his estimated expenditure and reasoning for the missed payments were plausible for both agreements – and I don't think it's unreasonable that AutoMoney accepted his explanations. As the checks showed in both instances that Mr B had enough disposable income to afford the agreements, and his explanations for the missed payments were plausible, I'm satisfied that its results did not prompt the requirement of any further checks.

I understand Mr B's concern about the fact that AutoMoney's queries failed to consider that he was a carer for a parent and the sole earner for his household. I've thought about this carefully. And I would only expect AutoMoney to be aware of something if it was either directly informed about it, or if the checks that it performed surfaced evidence of a discrepancy that warranted further checks which would ultimately reveal it.

I can't say that AutoMoney ought to have been aware of Mr B's additional responsibilities – before each agreement Mr B declared his income directly, and was also asked his residential status, total household income per year and his own maximum monthly contribution to the household. Each time Mr B's answers suggested that he was not the sole earner of the household as Mr B's declared income did not match his declared total household income. His expenditure answers also suggested that his parents partly supported him with grocery spending, rather than the other way around. I wouldn't have expected AutoMoney to have enquired further about the matter based on the declared information.

Mr B has also stated that his credit history should have meant AutoMoney needed to request his bank statements for income and expenditure verification. But I'm satisfied AutoMoney acted reasonably when querying the adverse data on Mr B's file, and completing an income and expenditure exercise with him. Mr B's answers about the adverse data were both reasonable and plausible. In short, I'm satisfied in both instances that the checks AutoMoney completed were proportionate for the circumstances. And I don't think the information that was gathered meant it should review anything further than it already had done.

Finally, Mr B has referenced his difficulties with gambling, and his belief that AutoMoney should have completed further checks to ensure he could afford the agreements because of this. I've thought about this carefully as well – and I'm sorry to hear about the trouble Mr B has experienced. But for me to say that Mr B's gambling should have prompted AutoMoney to complete further checks I'd need to be satisfied that its checks revealed details around this concern that required further investigation, or evidence that Mr B had disclosed this detail to AutoMoney.

I can't reasonably expect AutoMoney to be aware of Mr B's gambling vulnerabilities if they weren't disclosed to it at the time, or unless the searches it completed prompted questions on the matter. Mr B has explained that a disclosure was not made at either point of sale. And I can't see that any of the information AutoMoney gathered from its proportionate checks highlighted any gambling vulnerabilities. So, whilst I appreciate the difficulties Mr B has experienced and the impact the lending has had on his gambling, I can't say that AutoMoney should have been aware of this factor at either point of sale.

As such, I'm satisfied AutoMoney completed proportionate affordability checks for both agreements, but this doesn't automatically mean it made fair lending decisions.

Did AutoMoney make fair lending decisions?

Overall, I'm satisfied that the lending decisions were fair and reasonable. I say this because the income and expenditure checks completed for both agreements showed a disposable income of around £250 and £800 a month respectively after factoring in the finance. I'm satisfied that this allowed enough for emergency or unexpected costs – and that the lending decisions were fair for Mr B's known circumstances at both points of sale.

Again, I do understand that Mr B's own testimony explains his how his own circumstances weren't truly reflective of the checks completed. But for the reasons explained I can't say that AutoMoney should have been aware of this based on the checks that it did complete, and I'm satisfied that the checks it did complete were proportionate for the circumstances that its checks revealed. So, it follows that I think AutoMoney made a fair lending decision.

Did AutoMoney act unfairly or unreasonably in some other way?

I'm not persuaded from the submissions made to date that AutoMoney acted unfairly or unreasonably in some other way. I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

My final decision

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 4 October 2024.

Paul Clarke
Ombudsman