

The complaint

Mr and Mrs C complain Advantage Finance Ltd (Advantage) irresponsibly entered into a car finance agreement because it did not complete reasonable and proportionate checks to ensure the agreement was affordable for them.

What happened

Mr and Mrs C entered into a hire purchase agreement with Advantage in order to acquire a used car on 1 March 2022. The cash price of the car was £8,990. They did not make an advance payment. The total amount payable was £17,943 which included an acceptance fee and option to purchase fee. They were to make 59 monthly repayments of £295.72 and a final repayment of £495.72.

Mr and Mrs C complained to Advantage about irresponsible lending on 11 July 2023. They said Advantage required Mrs C to be added to the agreement, but her income was already spoken for in respect of household bills and other expenses. Mr C said he informed the broker he was due to start a new job in a couple of weeks' time. He said the job never materialised and he was out of work until 18 July 2022. He said as a direct result he has almost £5,000 outstanding on credit cards. He said he had defaults and arrears on his credit file, and it should have been quite clear at the time that he would struggle to maintain repayments. The car had been parked unused for the past three months because he couldn't afford a service or new tyres which it needed.

Advantage issued its final response to the complaint on 4 September 2023. It said the loan being applied for was not a payday or short-term loan of the type typically used to tide a person over. This loan was to facilitate the purchase of a motor vehicle. It said the agreement needed to be a joint agreement to progress. It explained this was because Mr C already had an existing agreement with Advantage. It said it carried out an affordability assessment as a fundamental part of the decision-making process. It verified income using both Mr and Mrs C's payslips, carried out a credit search and used statistical data from a variety of official sources. Overall, it felt the checks it had carried out had been reasonable and proportionate and sufficiently demonstrated Mr and Mrs C could afford the repayments.

Mr and Mrs C remained unhappy and asked our service to investigate. Our Investigator issued a view explaining why they felt the checks hadn't been reasonable or proportionate. However, they felt had such checks been carried out then it's likely the agreement would have seemed affordable for Mr and Mrs C. Mr and Mrs C seemed to have sufficient disposable income at the time to sustainably afford the repayments.

Advantage agreed with our Investigator's findings. However, Mr and Mrs C didn't agree and, in summary, they said:

- Mr C told the credit broker that he was leaving his job from 2 March 2022, so it's not right to say it would be fair for Advantage to conclude he would still be employed.
- Mr C provided telephone calls to show what was discussed with the broker when entering the agreement. However, two calls are missing which would have shown he

told them he was going to be out of work.

- Mr C said he was told to provide payslips which didn't include deductions for sick pay.
- Mr C said he was told to add Mrs C to the application for the agreement because he was unemployed and disputes Advantage told him it was because he had an existing agreement which was under 12 months old.

Therefore, the 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.

We explain how we handle complaints about irresponsible and unaffordable lending on our website. I've used this approach to help me decide Mr and Mrs C's complaint. Advantage 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 Advantage needed to carry out proportionate checks to understand whether any lending was affordable for Mr and Mrs C before providing it.

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

1. Did Advantage complete reasonable and proportionate checks to ensure Mr and Mrs C could sustainably afford to repay the agreement?
 - If so, did it make a fair lending decision?
 - If not, were such checks likely to have shown Mr and Mrs C would've been able to do so?
2. Did Advantage act unfairly in some other way?

Did Advantage complete reasonable and proportionate checks to ensure Mr and Mrs C could sustainably afford to repay the agreement?

Advantage was required to ensure it carried out adequate checks to ensure Mr and Mrs C could sustainably afford the agreement. These checks had to be borrower-focussed and proportionate. 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, and the consumer's specific circumstances.

Advantage said the application described Mr and Mrs C as married with no dependents and living in private rented accommodation. It said it had details about Mr and Mrs C's employment status and occupations. The relevant checks were then completed, and Mr and Mrs C's income was successfully verified by payslips. It calculated Mr C's income as £1,573.50 and Mrs C's income as £1,538.50. It calculated this as an average of the year-to-date income.

Advantage said it took into account statistical data to estimate other expenditure including typical rent, council tax, utility and other costs of living which might have been applicable. It considered Mr and Mrs C's credit commitments from the credit search and also added a buffer to the affordability calculations. Based on the information, Advantage estimated

Mr and Mrs C would have headroom of £1,062 to cover other household expenses. This was after it took into account a maximum monthly repayment of £877 (which was higher than the actual repayments under the agreement). Therefore, it concluded the agreement was affordable for Mr and Mrs C.

However, I've reviewed a copy of the credit search, and I can see there are signs of financial difficulties which were fairly recent to the lending. For example, in December 2021 Mr C settled two unsecured loans one of which had been six months in arrears at the time and the other which had been five months in arrears. There was also evidence of other missed payments, including for a communications account, a separate hire purchase agreement and credit card all within the 12-month period leading up to the agreement. Mrs C had also been in an arrangement to pay which ended in April 2021. There was evidence of older defaults for both Mr and Mrs C including those recorded in January 2021, February 2020 and December 2019. I'm satisfied this information ought to have prompted more thorough checks.

I can appreciate Advantage did verify both Mr and Mrs C's income, but the information on the credit file seemed to show some recent financial difficulties and I think this ought to have prompted further checks into their specific expenditure. Whilst Advantage used ONS data to estimate affordability, from the adverse information on the credit file I think it's reasonable to conclude Mr and Mrs C might not be the average customers here and it wasn't appropriate to rely on statistical data. Therefore, Advantage ought to have sought some more information about Mr and Mrs C's specific expenditure to ensure they could affordably make the repayments.

Were reasonable and proportionate checks likely to have shown Mr and Mrs C would be able to sustainably afford the agreement?

Although I have determined the checks completed by Advantage weren't reasonable or proportionate, this doesn't necessarily mean the complaint should be upheld. I must now consider what I think Advantage were likely to have discovered at the time of the lending had it completed proportionate checks. To do this, I have considered relevant bank statements which cover the three-month period leading up to the agreement. I want to be clear that I'm not saying Advantage needed to go as far as to get bank statements in order to complete a proportionate check. However, the statements do show what Advantage were likely to have found out had it sought to obtain more information about Mr and Mrs C's specific expenditure.

Firstly, I'd note Mr and Mrs C's income was verified using payslips by Advantage. I understand Advantage had queried the sick pay and it went on to calculate the average monthly income figure based on the year-to-date amount. Advantage determined an average monthly income figure for Mr and Mrs C of £3,112. In this way, Advantage were being cautious when it averaged Mr C's salary. I note Mr C is concerned he was asked to provide a further payslip without sick pay. However, Advantage had queried the pay and asked for some further information, so it seems it was seeking further clarity, and I don't think this meant it did anything wrong.

Mr C has confirmed he was earning more than the amount Advantage verified from that particular role. I can see from the information provided on the payslips and statements that Mr C was expected to earn more on a monthly basis. In the months leading up to the agreement, Mr and Mrs C received a joint income of around £4,194. In addition to this income, Mr and Mrs C also received other regular contributions which seem to have been used to pay non-discretionary payments. For example, they received monthly contributions from their son.

Mr C has said he told the broker that his employment was expected to end in March 2022. He has obtained call recordings from the broker but says the key calls are missing which would show he informed the broker. I appreciate Mr C's concerns about the information provided, and I do need to weigh up the information I have about this to consider what was more likely to have happened than not. I don't think it's likely further information would change the outcome here. This is because Mr C provided payslips to demonstrate he could afford the agreement and in one of the calls with the broker I've heard the broker confirmed Mr C '*earns plenty*'. Also, as Mr C provided the statement, I think Mr C could reasonably expect Advantage to use the information on his payslip to confirm whether it should lend. This payslip showed he earned £2,716.54 in January 2022.

Additionally, Mr C has said he was told he had to add his wife because he was due to be unemployed. I've listened to the calls with the broker and can hear the broker confirmed it was because his level of income wasn't enough for the agreement. This tells me Advantage expected Mr C's employment to continue but it wasn't satisfied with his income alone. The agreement was also signed on the basis Mr C did not expect his circumstances to change. I'm not satisfied Advantage knew or ought reasonably to have foreseen Mr C's circumstances were due to change and that he'd be out of work. For these reasons, I'm satisfied it's reasonable to rely on the joint income figure of around £4,194.

In respect of Mr and Mrs C's expenditure, I've considered the bank statements to decide what I think was likely to have been discovered by Advantage through proportionate checks. I've considered payments towards utilities, council tax, food, rent, insurance and other essential spend. I've also thought about the payments Mr and Mrs C were making towards their credit commitments as shown on the credit search conducted by Advantage. I've only included what I think was likely to have been determined as ongoing commitments. Having done so, Mr and Mrs C seemed to have an overall committed spend of around £3,086 per month.

Considering Mr and Mrs C's income of around £4,194, Mr and Mrs C would be left with around £1,108 per month disposable income after the committed expenditure identified. I'm satisfied this was sufficient to cover repayments of £295.72 and would leave them with a reasonable amount remaining to cover any other expenditure which might unexpectedly arise throughout the course of the agreement. I'm also mindful, as mentioned, Mr and Mrs C received other contributions to their income including board from their son.

I've also thought about the adverse information on the credit search. For example, I can see Mr C had been five and six months in arrears on two unsecured loans. I note both these loans were settled in December 2021 and before Mr and Mrs C entered into this agreement. Also, I note there were returned direct debits on Mr and Mrs C's statements, but these weren't apparent on the credit search. It might be because the payments were made up within a short amount of time. There were some missed payments which were recorded in the 12-month period leading up to the agreement and which I've taken into consideration. Nevertheless, I don't think the adverse information I have seen suggests it was irresponsible for Advantage to lend in the circumstances, particularly where further checks into Mr and Mrs C's expenditure were likely to have shown they could sustainably afford the repayments.

Overall, I'm not satisfied Advantage completed a reasonable and proportionate affordability check. It ought to have done more in light of the information it had. However, had such checks been carried out, I'm satisfied it's likely they would have shown the agreement was affordable for Mr and Mrs C. Also, I don't think the information Advantage had or were likely to have obtained through an appropriate check demonstrated it was irresponsible to lend to Mr and Mrs C. Therefore, I won't be asking Advantage to do anything to resolve this complaint. I understand this will come as a disappointment for Mr and Mrs C who feel

strongly about their complaint and have said they told the broker about Mr C's employment. However, considering everything on balance, I can't conclude this was something Advantage knew or ought reasonably to have foreseen.

Did Advantage act unfairly in some other way?

I acknowledge Mr C's concerns about the reasons why he needed to add Mrs C to the agreement. Advantage has said he was told he would need to add Mrs C to the agreement because it was his second car finance agreement with it. I'm satisfied this was the initial basis for adding Mrs C to the agreement and from the calls I can hear it was discussed with Mr C. After Mrs C was added to the agreement, Advantage then confirmed he wouldn't be able to take out a second agreement in any event because the first one had been taken out in the previous 12 months. It apologised at the time.

I can see Mr C went on to settle the first agreement and the broker contacted Advantage about removing Mrs C from the agreement. However, in the calls provided I've heard the broker said it would need to be kept as a joint agreement because Advantage had confirmed Mr C wouldn't be able to take out the same level of finance. There was no indication this was a problem during the telephone call and the broker confirmed the agreement would need to be re-signed. I can see both Mr and Mrs C electronically signed the agreement.

So, whilst there has now been some confusion created around the reasons for Mrs C being added to the agreement, I'm satisfied from the evidence the reason was likely to have been clear when Mr and Mrs C entered into the agreement. This seems to have been because of the level of Mr C's income and not because Advantage knew Mr C would be out of work. Therefore, I don't think Advantage have done anything wrong here. I've already considered and explained what reasonable checks were likely to have shown in respect of Mr and Mrs C's affordability as joint applicants.

I've also considered whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think Advantage lent irresponsibly to Mr and Mrs C or otherwise treated them 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.

My final decision

For the reasons outlined above, I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C and Mr C to accept or reject my decision before 25 April 2025.

Laura Dean
Ombudsman