

## The complaint

Mr H complains that Advantage Finance Ltd (“Advantage”) gave him a hire purchase agreement without carrying out any checks into his income and monthly expenditure. Had better checks been made Advantage would’ve realised he was in financial difficulties.

## What happened

In January 2022, Advantage provided Mr H with a hire purchase agreement for a used vehicle through a credit intermediary. The cash price for the vehicle was £7,091.00. Mr H paid £50 deposit so £7,041 was financed. There was also interest, fees and charges totalling £7,918.40 with Mr H having to repay a total of £15,009.40.

If he repaid the loan in line with the credit agreement, Mr H was due to repay the loan through 59 monthly repayments of £245.99 followed by a final payment of £445.99. As of August 2024, Mr H had made all his payments as expected.

Mr H, complained to Advantage in July 2024 about the lack of checks that were carried out before the agreement was entered into. Advantage issued a final response in the same month, and it didn’t uphold the complaint. Mr H then referred the complaint to the Financial Ombudsman.

Mr H’s complaint was then considered by an investigator. The investigator concluded that more thorough checks were needed before granting the agreement to Mr H due to the number of payday loan accounts which Advantage knew Mr H had taken. However, the investigator concluded that had Advantage made better checks, it would’ve reached the same conclusion – the agreement would’ve appeared affordable.

Mr H disagreed with the outcome. I’ve summarised his responses below;

- Mr H provided bank statements for another account (from a different bank to the one he had previously provided) – which he said was his main day-to-day account. The statements showed further payments to creditors.
- Mr H says the majority of his income when on short-term expenses and discretionary expenditure.
- Mr H’s bank statements show payments to a number of buy now pay later creditors – which show that he was under financial distress.
- The investigator did an “*income minus fixed expenses*” which wasn’t reflective of whether the agreement was affordable.
- Mr H could only afford his loan payments by obtaining further credit.

The additional bank statements and comments made by Mr H didn’t change the investigator’s mind about the outcome because there still appeared to be sufficient disposable income for Mr H to afford his payments. As no agreement could be reached, the complaint has been passed to me, for a decision.

## **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 H's complaint. Having carefully thought about everything I've been provided with, I'm not upholding Mr H's complaint. I'd like to explain why in a little more detail.

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

Advantage was told that Mr H earned a gross annual salary of around £30,490 per year which worked out at about £2,039 per month after tax. Advantage has shown as part of the affordability assessment it cross referenced the information given with a tool provided by a credit reference agency – which is one of the ways Advantage could've checked Mr H's income. This tool appears to have confirmed the accuracy of the income.

In addition to checking Mr H's income Advantage went about using statistical data derived from several sources to establish Mr H's monthly living costs. Taking account of where Mr H lived, it estimated monthly rent payments of £500 and government data suggested council tax payments of £107.71. Advantage also used Office of National Statistics data for his utilities and these costs came to £107.46 per month. Advantage then used the information from Mr H's credit file (which I'll come onto below) to work out that his monthly credit costs – which it worked out to be £364.62.

Overall, Advantage worked out Mr H's living costs came to £1,079.79 per month. This left just under £1,000 per month to cover the cost of the loan repayment and any other household costs he may have had. Advantage therefore concluded the loan was affordable.

Advantage also conducted a credit search before granting the agreement and it has provided a copy of the results that it received. I've considered these results to see whether Advantage was given any indication that Mr H was, or was likely having, financial difficulties at the time the agreement was granted.

It knew that Mr H had eight active accounts, including current accounts, credit cards, a personal loan and existing car insurance. It also knew the monthly repayments Mr H had which was broadly in line with the figure it calculated and used for its affordability calculation. These accounts had mostly been paid in line with the credit agreements.

Advantage was told that previously, Mr H had been a regular user of payday loans – indeed between 2016 and 2020 he had taken and repaid at least 54 such loans. Although it's worth adding here the credit file results Advantage received suggested he hadn't taken any for at

least seven months and there were no active payday loans at the time he applied for the finance.

So, while, Mr H may not have had any outstanding payday loans, Advantage was on notice that Mr H had been a regular user of such products that may have indicated some financial difficulties.

Advantage was also aware that Mr H had defaulted on a number of accounts, at least seven, albeit most had been repaid. The two most recent – which defaulted at the end of 2021 - still had outstanding balances to repay. And this is an indication that Mr H may have been financial difficulties close to the time when he applied for the car finance.

So, I do think it's fair to say that within the last year Mr H had experienced problems making repayments to a number of creditors – and those problems had extended close to the time when the agreement was granted.

Like the investigator I don't think Advantage's checks went far enough. Mainly because I have concerns about Advantage's use of statistical data in the circumstances of this complaint because of the recent impaired credit file data Advantage was aware of. In those circumstances it just wasn't fair nor reasonable to have relied on statistical data to determine what his likely living costs were.

Advantage's checks could've gone further simply by asking Mr H what his actual living costs were rather than solely relying on statistical data either by asking for evidence from Mr H about his bills or as I've done, it could've asked for copy bank statements.

But to be clear, I've only used the bank statements to get an idea of what Mr H's regular living costs are likely to have been at the time. I've not done this because I think Advantage ought to have requested this information as part of underwriting this loan. Afterall Advantage already had a reasonable idea of Mr H's credit commitments and his income.

I accept that had Advantage conducted proportionate checks it may not have seen all the information that I have seen. But, in the absence of Advantage conducting a proportionate check I do think it's fair and reasonable to consider statements that I now have access to. And having looked at the statements I've come to the same conclusions as the investigator for broadly the same reasons.

I can see from the first set of bank statements, that shortly after Mr H is paid there are a number of direct debits to a number of companies including a mobile phone, insurances, debt collectors, car tax, loans and regular payments for petrol. I can also see a monthly repayment for rent.

It's worth saying here that Advantage already had an accurate idea of Mr H's existing credit commitments which it was entitled to rely on but there were further commitments towards loans that didn't appear in the credit search results. So, I've added those together with the costs that Advantage discovered from the credit search results as well as the other costs that I can see in the statements along with what Mr H has told us about his living costs. Had Advantage taken a closer look at Mr H's finances then I think it would've been become aware of that Mr H's living costs – excluding food came to around £1,600 per month.

I've looked at the other statements provided by Mr H and I can see a payment to a payday loan company – but I don't think Advantage would've likely been aware of that, given that it wasn't required to ask for bank statements when finding out about his living costs. And the credit file Advantage had obtained had said there weren't any active payday loans and there hadn't been any taken out for around a year – by the time the finance was approved.

I can see from the statements that Mr H was making a number of payments to 'buy now pay later' accounts. However, these didn't appear in the credit check results Advantage obtained. And in some situations it may have been a sign that a customer is maybe having difficulties managing their purchases. But, in the circumstances of this complaint, I'm not persuaded Advantage would've thought this would change its decision to lend.

I'm still of the view that had Advantage made better checks it would've seen that the loan payments were just about affordable for him. And I'm not in agreement with Mr H that using the 'buy now pay later' payment method necessarily points to the user being in trouble financially.

So, I don't see a reason why Advantage would've thought, given everything it had gathered and what it saw in the credit file, that Mr H wouldn't be able to sustainably make his repayments towards this agreement or didn't have any enough left over each month to cover any unforeseen circumstances.

I am therefore not upholding Mr H's complaint because had Advantage carried out proportionate checks that would have showed the loan to be affordable and sustainable for him.

If Mr H says is currently having difficulties managing his payments, then Advantage has an obligation to treat him fairly and with forbearance. I can see in the final response letter that it has mentioned that voluntary termination of the agreement is possible – especially as by now Mr H seems to have paid more than 50% of the agreement. If this is something that Mr H thinks maybe useful for him, then he can speak to Advantage to discuss his options.

Finally, 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 Advantage lent irresponsibly to Mr H 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.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 28 March 2025.

Robert Walker  
**Ombudsman**