

The complaint

Mr S complains that CA AUTO FINANCE UK LTD was irresponsible in its lending to him.

What happened

Mr S acquired a car through a Personal Contract Purchase Agreement with CA Auto Finance in August 2023. The agreement term was 36 months and Mr S was required to repay a total of £33,428.40 through 35 monthly repayments of around £474 followed by a final payment if Mr S wished to keep the car of £15,344.

Mr S said that at the time the finance was provided he already had loans, credit cards and overdrafts to repay and these could be seen on his credit file. He said the lending wasn't affordable and he had to borrow more to meet his repayments. He doesn't accept that adequate checks were carried out before the finance was provided.

CA Auto Finance issued a final response to Mr S's complaint dated 20 May 2024. It reviewed Mr S's account and said that all payments had been made in line with the agreement and no issues had been flagged. It said that as part of the application process, Mr S was provided with all the required documents and information relating to the agreement. It said this information included the amounts Mr S needed to repay and the cost of the finance.

CA Auto Finance explained that before the finance was provided it assessed Mr S's creditworthiness and how affordable the credit would be for him. Mr S declared an income of £36,996 and this was verified. It calculated his monthly disposable income as £1,229 and found his credit file showed he had stable affordability. Based on this it didn't uphold this complaint.

Mr S wasn't satisfied with CA Auto Finance's response and referred his complaint to this service.

Our investigator didn't find that he had been provided with enough information by CA Auto Finance to be able to say that reasonable and proportionate checks took place. He thought that CA Auto Finance needed to get a thorough understanding of Mr S's financial circumstances before providing the finance and so he assessed what it would likely have identified from proportionate checks.

Our investigator reviewed Mr S's bank statements for the three months before the lending decision was made to understand what would have been identified through further checks of his income and expenditure. He found that Mr S received income from two employers in the first month totalling £2,069 but then income from only one employer in the two months before the lending of £1,396 and £1,394 respectively. Mr S confirmed that his employment had changed in this period. Mr S also received income into his account from credit card advances and a tax rebate, but our investigator said these shouldn't be considered as income.

Our investigator then assessed Mr S's non-discretionary expenditure and existing credit

repayments. He found these to total around £907. Deducting this from Mr S's income of around £1,395 left disposable income of around £487. Noting the repayments due under the agreement were around £474 and his calculations didn't include Mr S's costs for petrol or food, he thought that reasonable and proportionate checks would have shown the agreement to be unaffordable. He therefore upheld this complaint.

CA Auto Finance didn't agree with our investigator's view. It said that Mr S provided the details of his income, and it undertook a credit worthiness assessment using a credit reference agency based on current account turnover. It said this was an industry standard tool and this verified Mr S's declared income. It said Mr S's expenditure was assessed based on information he provided and benchmarked against information from third parties. This suggested Mr S had a monthly net disposable income of £1,279 and the repayments fell comfortably within that figure. It said that Mr S's credit check didn't raise concerns and Mr S confirmed that the agreement was affordable for him.

CA Auto Finance said that our investigator had carried out their own income and expenditure checks based on the bank statements which it hadn't seen and had referred to the unfair relationship provisions in Section 140A and 140C of the Consumer Credit Act which it said Mr S hadn't raised as part of his complaint. It said the investigation into this complaint should have been based on the information provided and grounds of the complaint not added to. It said its checks undertaken before the lending was provided were reasonable and proportionate and Mr S had made all the payments due. It noted that Mr S needed the car for his job and might not have been able to maintain his job without it. CA Auto Finance didn't accept our investigator's outcome and also said the redress recommended wasn't fair and challenged the fair use calculation.

Our investigator responded to CA Auto Finance's comments but said these didn't change his view. He said that a mistake had been made in the calculation for the fair use figure and this should have been £340 a month. It was requested that this case be considered by an ombudsman.

Since then, Mr S has voluntarily terminated his agreement. The car has been returned and an inspection carried out. CA Auto Finance confirmed that Mr S had completed 13,516 miles and that there were no disputes over the condition of the returned car.

Mr S disputed the fair use figure of £340 a month and provided a valuation for the car.

My provisional conclusions

I issued a provisional decision on this complaint. While I upheld the complaint as our investigator did, as there had been developments since the view, I set out the additional information that I relied on to reach my decision. The details of my provisional decision are set out below.

Before the finance was provided, CA Auto Finance asked Mr S about his income and verified this using a current account turnover tool. An affordability assessment took place and Mr S's monthly disposable income was £1,229. CA Auto Finance's notes show that a manual underwriting decision was made. While I acknowledge the checks that CA Auto Finance has explained, I haven't seen the results of the credit check or details of the affordability. Without these, I cannot say whether or not the checks were proportionate. Because of this, I have looked at the additional information provided to understand what proportionate checks would have identified.

I note CA Auto Finance's comment about our investigator carrying out his own income and expenditure assessment based on Mr S's bank statements which it hadn't seen. I

understand that CA Auto Finance has now been provided with the bank statements that were relied on. While I do not find that CA Auto Finance was required to request copies of Mr S's bank statements as part of its lending assessment, given the amount being lent, the agreement term and the repayments required, I think that reasonable checks would have included Mr S's income being verified and details being gathered about his expenses. While I note the current account turnover tool was used to validate Mr S's income given the size of the loan, I think that further verification of his income should have taken place and that information about his specific expenses should have been gathered. Given this and as I haven't seen the details of the information CA Auto Finance gathered, I have used the information contained in Mr S's bank statements to assess what would likely have been identified had the above checks taken place.

Having looked through the information provided, Mr S's monthly income was around £1,395. I note that in May 2023 Mr S changed employer and so there were receipts from two employers that increased his total income for that month to just over £2,000. However, I think reasonable verification of Mr S's income would have shown his regular income to be around £1,395. Based on this, the repayments under the CA Auto Finance agreement accounted for around 34% of Mr S's net income.

Mr S had other credit commitments at the time of his application, including credit cards and a loan. His average repayment towards these was around £750. Additional to this he was paying £50 a week towards his household bills (Mr S has said he was living with a family member and was due to pay a higher amount, but the family member was accepting this amount due to his financial circumstances). Deducting this from Mr S's net monthly income didn't leave him with enough to cover the repayments due under the CA Auto Finance agreement, and that is before including any general living costs such as food and fuel. Therefore, I find that proportionate checks would have shown this agreement to be unaffordable for Mr S and so I am upholding this complaint.

Mr S has voluntarily terminated his agreement and the car has been returned. In December 2024, CA Auto Finance confirmed that there were no disputes over the car's condition and the mileage completed by Mr S was 13,516. Based on this, and as I find the lending to be irresponsible, I think that Mr S should only be required to pay for the time that he had the use of the car, that is from the start of the agreement (August 2023) to when this was terminated, (October 2024). This is a period of around 14 months.

As our investigator explained in his view there isn't an exact formula for working out what a fair monthly repayment would be to reflect Mr S's usage. In deciding what's fair and reasonable I've thought about the amount of interest charged on the agreement, Mr S's likely overall usage of the vehicle and what the costs to stay mobile would likely have been if they didn't have this vehicle. In doing so I think a fair amount Mr S should pay is £340 for each month he had use of the vehicle. I note CA Auto Finance's comment about this amount and the amount it thought would be fair but that referred to Mr S retaining possession of the car which is no longer the case. In this situation I think the £340 a month payment is reasonable. Based on Mr S having use of the car for around 14 months This means CA Auto Finance can only ask him to repay a total of £4,760.

I've also considered whether CA Auto Finance acted unfairly or unreasonably in some other way given what has been complained about, including whether it's relationship with Mr S might have been viewed as unfair by a court under Section 140A of the Consumer Credit Act 1974. I note CA Auto Finance's comment about Mr S not raising this as an issue but given the nature of the complaint I think it fair to have considered this. However, I'm satisfied the redress I have directed below result in fair compensation for Mr S in the circumstances of his complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

CA Auto Finance accepted my provisional decision.

Mr S responded saying that while he was happy to agree with the decision, he wanted to raise the following points for consideration:

- Fair Usage Costs – He set out when the agreement was entered into, and the termination date and thought that only a half payment should be considered for the final month resulting in £4590 being repayable by him.
- CA Auto – Mr S said that CA Auto made two comments that he didn't agree with. He said he didn't recall telling CA Auto that he needed a car for his work or that he wouldn't be able to maintain a job without one.
- CA Auto claimed that he didn't raise the payments being challenging as an issue. He said he had called CA Auto twice about this and asking what support was available. He said options were given but he wasn't offered a reduced payment plan or any support.

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.

Our general approach to complaints about unaffordable or irresponsible lending – including the key rules, guidance and good industry practice – is set out on our website.

The rules don't set out any specific checks which must be completed to assess creditworthiness. But while it is down to the firm to decide what specific checks it wishes to carry out, these should be reasonable and proportionate to the type and amount of credit being provided, the length of the term, the frequency and amount of the repayments, and the total cost of the credit.

As I set out in my provisional decision, I think that had proportionate checks been carried out before the lending was provided, CA Auto would have realised this agreement would not be sustainably affordable for Mr S. This has been accepted by the parties and so my conclusions regarding this haven't changed.

I note Mr S's comment that he doesn't recall saying he needed the car for work. I cannot say exactly what was said at the time, but I do not find that this would change my decision. I have accepted that the car was available for Mr S's use in the period between the agreement starting and its termination, and the fair usage cost is based on this.

Mr S has noted the date the agreement started and was terminated. I can see that Mr S signed the agreement on 17 August 2023 and the termination date was 2 October 2024. The car was collected after this date and the inspection undertaken in December 2024. While I appreciate that Mr S terminated the agreement within the 14th month, noting the time and use he had of the car, I think the fair usage calculated in my provisional decision is fair.

I note Mr S's comment about the service he received and not being provided with options of a repayment plan or other support. I am sorry to hear of this. But as Mr S decided to voluntarily terminate the agreement and I am upholding this complaint in regard to irresponsible lending, I think the outcome I have provided is a fair one given the circumstances of this complaint.

Putting things right

As I don't think CA Auto Finance ought to have approved the lending, I don't think it's fair for it to apply any interest or charges under the agreement. Mr S had use of the vehicle for around 14 months before the agreement was voluntarily terminated in October 2024. So, it would be fair for Mr S to pay for this. However, I'm not persuaded that monthly repayments of £473.84 are a fair reflection of what fair usage would be because a significant proportion of these are towards repaying interest.

There isn't an exact formula for working out what a fair monthly repayment would be to reflect Mr S's usage. In deciding what's fair and reasonable I've thought about the amount of interest charged on the agreement, Mr S's likely overall usage of the vehicle and what the costs to stay mobile would likely have been if they didn't have this vehicle. In doing so I think a fair amount Mr S should pay is £340 for the time he had use of the vehicle. This means CA Auto Finance can only ask him to repay a total of £4,760.

As the agreement has been ended and the car returned, to settle this complaint CA Auto Finance should now do the following:

- Refund the deposit, adding 8% simple interest per year from the date of payment to the date of settlement*.
- Calculate how much Mr S has paid in total and deduct £4,760 for fair usage. If Mr S has paid more than the fair usage figure, CA Auto Finance should refund any overpayments, adding 8% simple interest per year from the date of payment to the date of settlement*.
- Remove any adverse information recorded on Mr S's credit file regarding the agreement.
- If there are any arrears after the settlement has been calculated, CA Auto Finance should arrange an affordable repayment plan and treat Mr S with forbearance and due consideration.

*HM Revenue & Customs requires CA Auto Finance to take off tax from this interest. CA Auto Finance must give Mr S a certificate showing how much tax it's taken off if he asks for one.

My final decision

My final decision is that CA AUTO FINANCE UK LTD should take the actions set out above in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 8 April 2025.

Jane Archer
Ombudsman