

The complaint

Mr D complains through a representative that Advantage Finance Ltd (“Advantage”) gave him a hire purchase agreement without carrying out adequate affordability checks.

What happened

In January 2021, Advantage provided Mr D with a hire purchase agreement for a used vehicle through a credit intermediary. The cash price for the vehicle was £4,599 and Mr D didn’t pay a deposit, so the full asking price was financed. There was interest, fees and charges totalling £3,215.54 with Mr D having to repay a total of £7,814.54.

Mr D was due to repay the loan through 53 monthly repayments of £141.01 followed by a final payment of £341.01. As of September 2024, Mr D had made all his payments as expected.

Mr D, complained to Advantage in March 2024 about the lack of checks that were carried out before the agreement was entered into and how this created an unfair relationship. Advantage issued a final response, and it didn’t uphold the complaint. Mr D’s representatives then referred the complaint to the Financial Ombudsman.

Mr D’s complaint was then considered by an investigator. The investigator concluded Advantage had carried out proportionate checks before it lent to Mr D and these checks indicated Mr D would be able to afford the agreement.

Mr D’s representatives disagreed with the outcome saying had Advantage reviewed Mr D’s bank statements it would’ve concluded the agreement wasn’t affordable for him. Mr D’s representative also provided a copy of its own income and expenditure assessment for Mr D.

The comments didn’t change the investigator’s mind about the outcome and 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 D’s complaint. Having carefully thought about everything I’ve been provided with, I’m not upholding Mr D’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 D 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 D received a monthly salary of around £1,700. Advantage has shown as part of the affordability assessment it cross referenced the information using a tool provided by a credit reference agency. This check supported that Mr D's declared income was likely to be accurate. For a first agreement, I think it was fair and reasonable for Advantage to have relied on the results of the income check.

In addition to checking Mr D's income, Advantage went about using statistical data derived from several sources to establish Mr D's likely monthly living costs. Taking account of where Mr D lived, it estimated monthly rent payments of £500 and government data suggested council tax payments of £119.13. Advantage also used Office of National Statistics data for his utilities and these costs came to £106.11. Advantage then used the information from Mr D's credit file (which I'll come onto below) to work out that his monthly existing credit costs – which it worked out to be £103.41 per month.

Overall, Advantage worked out Mr D's living costs came to £828.65 per month. This left just over £870 per month to cover the cost of the finance and any other living costs Mr D may have had. Advantage's conclusions that the loan was affordable wasn't unreasonable.

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 D was, or was likely having, financial difficulties at the time the agreement was granted – which may have led to further checks.

Having looked at the results, I don't think Advantage would've been overly concerned by what it saw. It knew there were no insolvencies, defaults, County Court Judgements and no missed payments on any active accounts.

Indeed, the one and only missed payment it was told about was on a current account which had closed in May 2019, with the adverse payment marker being recorded in or around July 2018. Given the lack of other adverse payment information I don't think Advantage would've been too concerned by it.

Looking at the known payments Mr D had per month – for example a loan costing £57 and with minimal payments due on his mail order and credit cards – of around 5% of the balance, I do think these costs were more than Advantage had calculated – I've worked them out to be around £160 per month whereas the investigator said they came to £219.

But whether my figure is used or the one calculated by the investigator doesn't make any difference to the outcome. Advantage should've substituted the known figures from the report into its affordability assessment, had it done that – whether using mine or the investigator's - the outcome is the same. The agreement would've appeared affordable.

I would just add that there is a CCJ recorded on Mr D's credit file, which he has supplied but this judgement was awarded more than two years after the finance was entered into and so Advantage couldn't have seen it or known about it.

Advantage had checked Mr D's income, carried out a credit search which didn't highlight any concerns about his ability to manage his existing commitments or which indicated he was having (or likely having) financial difficulties. In those circumstances, taking account of the monthly cost to repay the finance agreement, I think it was entirely fair and proportionate for Advantage to have relied on statistical data to work out Mr D's likely living costs. After all, using statistical data is permitted by the regulations that Advantage had to adhere to.

I can see Mr D's representative has provided a copy of an income and expenditure form it has completed, which shows Mr D wasn't likely to be able to make his repayments in a sustainable manner. However, as the checks Advantage carried out were proportionate and showed the payments to be affordable, I see no reason why it would've concluded it needed to do more before lending, such as reviewing Mr D's bank statements.

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

If Mr D is currently having difficulties managing his payments, then Advantage has an obligation to treat him fairly and with forbearance. He may wish to speak to Advantage to discuss a way forward.

Other consideration

As part of his complaint Mr D said he was subject to an Individual Voluntary Arrangement (IVA). I've checked the IVA register, and I can't see one has been reported – of course it's possible it's been completed and removed. But Advantage's own credit checks don't show an IVA and I've reviewed the credit file provided by Mr D and again, I can't see an IVA being reported.

In addition, while I can see that Mr D had had problems paying other debts, and is currently paying debt collectors, the letters he has provided post-date the granting of the finance. It's possible the debts related to accounts taken out before the finance was granted, but at the time, as I've said above, Mr D's credit file wasn't showing signs that he was struggling to make his existing payments. So I've not considered these any further.

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 D 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 D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 2 May 2025.

Robert Walker
Ombudsman