

The complaint

Mr M complains that Conister Bank Limited (CBL) failed to properly analyse his financial circumstances prior to lending to him.

Mr M is represented in this complaint by a professional representative but, for ease, I'll refer to Mr M directly throughout my decision.

What happened

In August 2019, Mr M acquired a used car through a Hire Purchase Agreement (HPA) with CBL. The cash price of the car was £9,600 with the full amount provided as credit through the agreement.

The agreement required Mr M to make 59 monthly repayments of £223.28, followed by a final repayment of £233.28 on month 60.

In November 2024, Mr M complained to CBL that they failed to properly analyse his financial circumstances prior to lending to him. He said at the time of the application he was on a low wage, he was already responsible for significant outgoings, including a mortgage, he was already struggling with debt arrears and was dealing with debt management companies.

CBL didn't think they'd done anything wrong saying they'd undertaken a credit check, and they'd requested a copy of Mr M's payslip prior to the case being passed to an underwriter, who on review, determined the agreement was affordable.

Mr M remained unhappy, so he asked the Financial Ombudsman Service to look into his complaint.

One of our Investigator's looked into things and said while he didn't agree CBL had completed proportionate checks, he thought that if they had done, they'd likely have found the repayments appeared affordable for Mr M. As such, our Investigator didn't think CBL had acted unfairly by approving the finance for him.

Mr M disagreed the amount of disposable income our Investigator had calculated was sufficient to safely support the variable costs such as unexpected car repairs, car tax and other unforeseen expenses. He also said he was actively making payments to a debt management company, which should have served as a clear warning of his existing financial difficulties.

Our Investigator looked into things again but said he remained satisfied Mr M's disposable income figure was enough to show the agreement would be affordable, particularly as it was replacing a previous car finance loan Mr M had been repaying without issue.

Mr M remained unhappy. Because no agreement could be reached, this 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.

Having done so, and I acknowledge it will come as a disappointment to Mr M, I'm not upholding his complaint for broadly the same reasons as our Investigator. I'll explain why.

How we handle complaints about irresponsible and unaffordable lending is explained on our website. It's this approach I've used when deciding Mr M's complaint. CBL needed to ensure they didn't lend irresponsibly which in practice, means they needed to carry out proportionate checks to be able to understand whether any lending was affordable and sustainable for him before agreeing to provide the finance.

The rules that apply to credit agreements are set out in the FCA's consumer credit sourcebook (CONC). Section 5.2A of CONC is relevant here, as – among other things – it talks about the need for businesses like CBL to complete reasonable and proportionate creditworthiness assessments before agreeing to lend someone money.

I've considered these rules by asking the following questions:

- 1) Did CBL complete reasonable and proportionate checks to satisfy themselves Mr M would be able to meet the repayments of the borrowing without experiencing significant adverse consequences?
 - If they did, was their decision to lend to Mr M fair?
 - If they didn't, would reasonable and proportionate checks have shown that Mr M could sustainably repay the borrowing?
- 2) Did CBL act unfairly or unreasonably in some other way?

Did CBL complete reasonable and proportionate affordability checks?

What's considered reasonable and proportionate in terms of the checks a business undertakes will vary dependant on the details of the borrowing and the consumer's specific circumstances at the time.

Here, the total amount repayable under the agreement was around £13,400, with Mr M committing to make a monthly repayment of around £223 over a term of 60 months. This was, therefore, a relatively lengthy credit commitment for someone to enter into repaying not an insignificant amount back each month, so my starting point is that I'd expect to see CBL to have completed a thorough affordability check.

CBL verified Mr M's income via his payslip. They could see he earned a net monthly income of around £1278.

CBL then completed a credit file check from which they could see Mr M seven active credit accounts in addition to a current bank account and a mortgage.

While CBL could see Mr M was managing his mortgage, a HPA account held elsewhere, an unsecured loan and a mail order account well, they could also see Mr M had defaulted on two further credit accounts, a communications account which had since been settled and a credit card account which remained outstanding with a balance of around £1,185.

Due to the information found, Mr M's application was referred to an underwriter who agreed the monthly repayment was affordable on the proviso his existing, HPA with a monthly commitment of around £177, was settled.

So, by stipulating Mr M's existing HPA was cleared upon the new finance being agreed, the increase to his expenditure was ultimately around £46.

However, while I don't think what CBL saw, as a result of their checks, ought to have given them reason to decline the application, I've not been provided anything to show me they thought about Mr M's other essential expenditure.

In this case, while Mr M's monthly repayment wasn't increasing his overall expenditure by a significant amount, it was still increasing it. This, alongside taking into consideration the term of the agreement, means I think CBL ought to have taken steps to better understand Mr M's essential expenditure.

It follows, for the reasons I've explained, I can't say CBL's checks were proportionate.

But as I've explained above, that doesn't necessarily mean I can uphold Mr M's complaint – I now need to consider whether CBL would've likely been able to fairly decide to lend to him if they had done proportionate checks.

If CBL had done proportionate checks, what would they have found?

As I've not seen any evidence of CBL's calculation of Mr M's expenditure or disposable income, I've looked at his same bank account statements, for the three months prior to the HPA being taken out.

I'm not saying CBL specifically needed to obtain bank statements as part of their credit worthiness checks. But in the absence of other information, I think bank statements provide me a good indication of Mr M's expenditure at the time the lending decision was made.

I'm satisfied Mr M's bank account statements show his average monthly expenditure towards essential spending was around £893. Approximately each month on average this consisted of £593 towards a mortgage, £100 towards his existing credit commitments and debt repayment, £109 towards groceries, £28 towards utilities and £63 towards car and travel related expenses.

Mr M has told our service he wasn't in a position to pay essential expenditure such as utility bills at the time. These were paid by his wife. And I can see where on occasions Mr M did pay for services such as water, a credit from his wife was received at a similar time to cover the outgoing so I've not included these in my calculations. I'm also persuaded had CBL asked Mr M about his expenditure, they more likely than not would've been told the same, that he wasn't paying these bills from his income.

So, from what I've seen, I'm satisfied this would have left Mr M with around £384 per month from which to make the repayments due under the agreement of around £224. While I'm aware Mr M disagrees an amount of around £160, the amount our Investigator reached, was enough, I think it is. As such, I'm satisfied CBL could have fairly decided the agreement was affordable for Mr M.

So, I'm satisfied CBL's lending decision was fair and I'm not upholding this complaint.

Did CBL act unfairly or unreasonably in some other way?

I've also considered whether CBL acted unfairly or unreasonably in some other way given what Mr M has complained about, including whether its relationship with Mr M might have been unfair under s.140A Consumer Credit Act 1974.

However, for the reasons I've already given, I don't think CBL lent irresponsibly to Mr M or otherwise treated him unfairly. I haven't seen anything to suggest that Section 140A or anything else would, given the facts of this complaint, lead to a different outcome here.

My final decision

For the reasons I've explained above, my decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 14 October 2025.

Sean Pyke-Milne
Ombudsman