

The complaint

With the help of a professional representative (PR), Mr B complains that Advantage Finance Ltd lent to him irresponsibly. For ease, I'll refer mainly to the actions of the PR as being those of Mr B.

What happened

Mr B has had two Hire Purchase agreements (HP) with Advantage, to acquire caravans. They were agreed on the following terms:

	Date	Cash price	Amount of credit	Term (months)	Monthly repayment	Total payable
HP1	17 October 2018	£12,000	£12,000	60	£355.42	£21,500
HP2	14 June 2022	£17,995	£14,995.99	60	£399.07	£24,144

HP1 was repaid in full on 15 June 2022 and acquired a second caravan with HP2. It appears he may have traded in the first caravan to raise the deposit of almost £3,000 for HP2.

On 25 October 2024, Mr B complained to Advantage. He said it had failed to carry out a proper creditworthiness assessment to check the HP's were affordable for him. He said, *"the repayments had a significant adverse impact on [his] financial circumstances"* and if it had done proper checks it would have been aware the agreements were not affordable. Mr B said as a result, an unfair credit relationship (as described in Section 140A of the Consumer Credit Act 1974 (s.140)) had been created. To resolve his complaint, Mr B asked Advantage to refund what he'd paid under the agreements including interest and his deposit along with 8% simple interest.

Advantage looked into Mr B's complaint but didn't uphold it. It outlined the checks it had carried out and said it believed the agreements to have been affordable for Mr B when they were agreed.

Mr B didn't accept Advantage's response, so he referred his complaint to our service. One of our investigators looked into it. He felt the checks carried out for HP1 had been reasonable and proportionate, and Advantage had made a fair decision to lend. But he felt Advantage ought to have done more to check Mr B could afford HP2. He asked Mr B for more information to help him decide what Advantage might have found had it done more checks. As Mr B didn't provide the information, our investigator said he didn't have sufficient information for him to say Advantage had lent to him irresponsibly. He didn't uphold Mr B's complaint, but said if he could provide the further information, he would take another look.

Mr B didn't agree with our investigator's view, but he didn't provide the further information for HP2 either. As there was no agreement, 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.

There are time limits for referring a complaint to the Financial Ombudsman Service and Mr B's complaint about the adequacy of the checks done and lending decision for HP1 appears on the face of it to have been brought too late. But our investigator noted that Mr B's complaint is also about an unfair relationship as described in s.140 and explained why it had been brought in time on that basis.

For the avoidance of doubt, I agree with our investigator that I have the power to look at the complaint. Advantage hasn't disputed our investigator's view on that so, as I don't think the complaint should be upheld, I won't comment any further on our jurisdiction over it. There is no doubt that we have the power to consider Mr B's complaint about HP2 as that was brought within the time limits allowed.

In deciding what is fair and reasonable I am required to take relevant law into account. As Mr B's complaint is also about the fairness of his relationship with Advantage, relevant law in this case includes s.140A, s.140B and s.140C of the Consumer Credit Act 1974.

S.140A says that a court may make an order under s.140B if it determines that the relationship between the creditor (Advantage) and the debtor (Mr B), arising out of a credit agreement is unfair to the debtor because of one or more of the following, having regard to all matters it thinks relevant:

- any of the terms of the agreement;
- the way in which the creditor has exercised or enforced any of his rights under the agreement;
- any other thing done or not done by or on behalf of the creditor.

Case law shows that a court assesses whether a relationship is unfair at the date of the hearing, or if the credit relationship ended before then, at the date it ended. That assessment has to be performed having regard to the whole history of the relationship.

S.140B sets out the types of orders a court can make where a credit relationship is found to be unfair – these are wide powers, including reducing the amount owed or requiring a refund, or to do or not do any particular thing.

Given what Mr B has complained about, I need to consider whether Advantage's decisions to lend to him, or its later actions, created unfairness in the relationship between the two, such that Advantage ought to have acted to put right the unfairness – and if so whether it did enough to remove that unfairness.

Mr B's relationship with Advantage is therefore likely to be unfair if it didn't carry out proportionate affordability checks and doing so would have revealed its lending to be irresponsible or unaffordable, and if it didn't then remove the unfairness this created somehow.

I think there are key questions I need to consider in order to decide what is fair and reasonable in the circumstances of this complaint:

- Did Advantage carry out reasonable and proportionate checks to satisfy itself that Mr B was in a position to sustainably repay the HP's?
 - If not, what would reasonable and proportionate checks have shown at the time?
- Did Advantage make fair lending decisions?

- Did Advantage act unfairly or unreasonably towards Mr B in some other way?

Advantage had to carry out reasonable and proportionate checks to satisfy itself that Mr B would be able to repay the credit sustainably. It's not about Advantage assessing the likelihood of it being repaid, but it had to consider the impact of the repayments on him.

There is no set list of checks that it had to do, but it could take into account several different things such as the amount and length of the credit, the amount of the monthly repayments and the overall circumstances of the borrower.

HP1

When he applied for HP1 in October 2018, Mr B declared he was employed on an income of £2,500. He was a homeowner, married and had no dependants. Advantage verified his income using information provided by a credit reference agency.

Advantage reviewed his credit report which showed he had a credit card with a £200 limit and a joint mortgage with a monthly repayment of £401. The report shows he was in a payment arrangement on the mortgage between October 2017 and February 2018, but it had been up to date since then. Mr B had two County Court Judgements (CCJ) registered against him. The first – from 2013 – was for £754 and showing as satisfied. The second was from May 2017 for £974 and remained outstanding. He also had a default on a joint current account dated October 2012, but the balance had been zero since at least September 2018.

It's clear from his credit report Mr B had had some financial problems in the past, but the most recent CCJ was almost 18 months old and the other adverse information (the first CCJ and the default) had been cleared. Mr B's mortgage and his credit card were up to date.

Advantage is a lender that specialises in lending to people with impaired credit ratings, so it is not unusual to see an applicant's credit file showing some adverse information. I wouldn't have expected Advantage to have any particular concerns about his credit file.

Advantage estimated Mr B's expenditure using typical council tax, utility bills and living costs in his area as well as factoring in his mortgage payment. It was satisfied that the repayments to HP1 of £355 per month were affordable for Mr B at the time he applied for it.

I think Advantage gathered enough information about Mr B as part of this process to constitute a reasonable and proportionate check. Having done so, I think it reached a fair decision to lend to him on this occasion.

HP2

By the time of this application in June 2022, Mr B declared a reduced monthly income of £1,611. His relationship and residential status remained the same. Again, Advantage verified his income through a credit reference agency.

His credit report now showed five credit cards with balances totalling £1,865, against credit limits of £2,500. He also had a utilities account with a balance showing of £1,509 and a payment of £38, and a couple of communications accounts which were up to date. He had a motor finance agreement for £365 per month which he'd taken out at the same time as HP1.

The oldest CCJ and the defaulted current account were no longer showing. The second CCJ was now showing as satisfied. The report showed Mr B had been in an arrangement to pay on HP1 (from August 2019 to December 2020) and on his joint mortgage from November 2019 to March 2020, but both these accounts were now showing as up to date. He had a

new default for £142 on a car insurance agreement. The balance had been reduced to £61.

Mr B had taken on a fair amount of credit since HP1. While he was on top of things by June 2022, he had struggled on occasion. His income had dropped considerably (almost £900 a month). So I think Advantage ought to have done more to have a closer look at Mr B's circumstances to ensure HP2 would be affordable for him. I don't think the checks were reasonable and proportionate in the circumstances.

I've thought about what further checks might have shown. Our investigator had asked Mr B for more information to help with that, but Mr B's PR had provided more information about his circumstances for HP1 instead. Our investigator pointed that out to the PR who then asked for the case to be referred for a decision. As Mr B hasn't provided the further information, I find myself unable to be able to say Advantage acted unfairly by agreeing to lend to Mr B. This is because I simply don't have the information required to help me assess what Advantage may have found had it done more.

As I don't have enough information to demonstrate otherwise, I can't reasonably say Advantage made an unfair decision to lend to Mr B.

Did Advantage act unfairly or unreasonably towards Mr B in some other way?

I can see there has been regular contact between Mr B and Advantage. There have been occasions where Mr B has not made his payment on time. There have been understandable reasons for the missed payments – such as expensive car repairs, problems with benefits and home repairs. Advantage has agreed payment plans with Mr B where needed to make up any arrears.

For the reasons I've already given, I don't think Advantage lent irresponsibly to Mr B 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

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 9 September 2025.

Richard Hale
Ombudsman