

Complaint

Mr B complains that Advantage Finance Ltd (“Advantage Finance”) unfairly entered into a hire-purchase agreement with him. He’s said that the monthly payments to this agreement were unaffordable given his circumstances at the time and so he shouldn’t have been lent to.

He has also complained that Advantage Finance paid a commission to the Broker that arranged his finance without telling him and without his permission.

Background

In September 2015, Advantage Finance provided Mr B with finance for a used car. The purchase price of the car was £10,000.00. Mr B didn’t pay a deposit and entered into a hire-purchase agreement with Advantage Finance for the total amount.

The loan had total interest, fees and charges of £9,750.00 (made up of interest of £9,250.00, an acceptance fee of £325 and an option to purchase fee of £175) and a 60-month term. This meant that the balance to be repaid of £19,750.00 was due to be repaid in 59 monthly instalments of £326.25 followed by a final monthly instalment of £501.25.

Mr B’s complaint was considered by one of our investigators. She didn’t think that Advantage Finance hadn’t done anything wrong or treated Mr B unfairly as she thought that the finance was affordable for Mr B and no commission had been paid to the Broker. So she didn’t recommend that Mr B’s complaint should be upheld.

Mr B disagreed with our investigator and the complaint was passed to an ombudsman for a final decision.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

Having carefully considered everything, I’ve decided not to uphold Mr B’s complaint. I’ll explain why in a little more detail.

Did Advantage Finance act fairly and reasonably when agreeing to lend to Mr B?

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 B’s complaint.

Advantage Finance needed to make sure that it didn’t lend irresponsibly. In practice, what this means is that Advantage Finance needed to carry out proportionate checks to be able to understand whether any lending was sustainable for Mr B 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 Finance says it agreed to this application after Mr B provided details of his monthly income which it says it verified with a copy of a recent payslips. Advantage Finance says it also carried out credit searches on Mr B which did show some previous difficulties with credit in the form of defaulted accounts and a satisfied County Court Judgment ("CCJ") recorded against him. However, it considered this to be historic as the CCJ had been obtained in 2010 and the most recent default was recorded well over a year prior to this application.

In Advantage Finance's view, when the amount due on Mr B's existing credit commitments plus an estimated amount for Mr B's living expenses, based on statistical data, were deducted from his monthly income, the monthly payments were affordable for him. On the other hand, Mr B says that these payments were unaffordable and there was no way he was going to be able to maintain them.

I've thought about what Mr B and Advantage Finance have said.

Having done so, I don't think that it was reasonable for Advantage Finance to use living costs based on statistical data for Mr B, given Mr B's previous difficulty with credit. In my view, the defaulted accounts and the CCJ recorded against Mr B suggested that he fell outside the profile of the average borrower, which such statistics were based on.

In these circumstances, I think that Advantage Finance ought to have done more to ascertain Mr B's actual regular living costs. As this is the case, I'm not persuaded that Advantage Finance's checks before providing this loan were proportionate.

In order to try and get an understanding of what a proportionate check is likely to have shown Advantage Finance, I've considered the information Mr B has provided. I realise that Mr B has tried to obtain a copy of his July 2015 bank statement. But given there wasn't a requirement to request bank statements from Mr B in the first place, let alone three months' worth, I'm satisfied that I have sufficient information to assess matters.

Having considered the information provided, it does appear to show that when Mr B's discernible committed regular living expenses and sustainable payments to his existing credit commitments were deducted from the amount he received each month, he did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

I accept that the real reason Mr B might have found it difficult to make his payments to this agreement isn't due to his existing credit commitments or his living expenses. And that this is readily apparent when the bank statements Mr B has provided are considered. It's also possible – but by no means certain – that Advantage Finance might have taken a different decision had it seen these bank statements at the time.

But what I need to think about here is what is Advantage Finance is likely to have known if it had carried out proportionate checks, not what it would have known if it had reviewed Mr B's bank statements. In other words, what was Mr B paying to his credit commitments and his regular living expenses – given Mr B was being provided with a car rather than cash.

Bearing in mind checking bank statements wasn't the only way for Advantage Finance to have found out more about Mr B's actual living costs – it could have obtained copies of bills or other evidence of payment etc – I don't think that proportionate checks would have extended into obtaining the bank statements provided. For the sake of completeness, it's difficult for me to accept that Mr B would have proactively disclosed his gambling as part of being asked about his living expenses either.

So while I sympathise with the difficulty Mr B may have had, nonetheless I don't think that Advantage Finance could reasonably be expected to have known about the nature and extent of Mr B's gambling and that it seemed to be escalating in the period just before he entered into this agreement. Furthermore, as Mr B was being provided with an asset, which he would not have been able to gamble in the same way as cash, I also think that this limits the relevance of his gambling in this instance.

Overall, while I don't think that Advantage Finance's checks before entering into this hire-purchase agreement with Mr B did go far enough, I'm satisfied that carrying out reasonable and proportionate checks won't have stopped Advantage Finance from providing these funds, or entering into this agreement with Mr B. So I'm satisfied that Advantage Finance didn't act unfairly towards Mr B when it agreed to provide the funds.

Did Advantage Finance treat Mr B unfairly by paying a commission to a credit broker without his knowledge?

Mr B has also complained that Advantage Finance unfairly paid the credit broker that arranged his hire-purchase agreement commission, without his consent. However, Advantage Finance has said that Mr B was an existing customer who made a direct application and therefore there was no broker for it to pay commission to.

To be clear, our service doesn't just accept, at face value, what a respondent firm says in relation to a complaint. In this instance, Advantage Finance has provided a copy of Mr B's hire-purchase agreement and the finance proposal form it used to process Mr B's application.

Both of these documents confirm that this was a refinance agreement. In other words, Mr B had an existing hire-purchase agreement at he wanted further finance so he could have a different car. Indeed, the finance proposal form lists '*Refinance Standalone Internal*' as the introducer for this agreement.

I'm also mindful that Mr B did have an existing hire-purchase agreement with Advantage Finance that he was paying £265.85 a month on and crucially which also ended early at the time he entered into this new agreement. I'm therefore satisfied that Mr B was an existing Advantage Finance customer at the time he applied for this hire-purchase agreement and the available evidence does support what Advantage Finance has said about the circumstances at the time of this application.

In these circumstances, I consider it more likely than not that for this agreement a credit broker did not introduce Mr B to Advantage Finance. So there wasn't a broker for Advantage Finance to pay any commission to and as a result no commission was paid for Mr B entering into this hire-purchase agreement. Therefore, I'm satisfied that Advantage Finance didn't unfairly pay a commission to a credit broker without Mr B's knowledge or consent.

In reaching my conclusions, I've also considered whether the lending relationship between Advantage Finance and Mr B might have been unfair to Mr B under section 140A of the Consumer Credit Act 1974 ("CCA").

However, for the reasons I've explained, I don't think Advantage Finance irresponsibly lent to Mr B or otherwise treated him unfairly. And I haven't seen anything to suggest that section 140A CCA or anything else would, given the facts of this complaint, lead to a different outcome here.

So having carefully considered everything, I've not been persuaded to uphold Mr B's complaint. I appreciate that this will be disappointing for Mr B. But I hope he'll understand the reasons for my decision and at least consider that his concerns have been listened to.

My final decision

My final decision is that I'm not upholding Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 16 September 2025.

Jeshen Narayanan
Ombudsman