

The complaint

Mr S complains about a motor finance agreement he entered into with Advantage Finance Limited ('Advantage'). He says that Advantage failed to disclose that it paid commission to the broker that introduced his business and that this resulted in him being charged more interest. And he says Advantage unfairly applied fees and charges in relation to the agreement.

Mr S is bringing this complaint through a third-party representative. However, for ease of reading I'll refer to Mr S alone in this decision.

What happened

In February 2016 Mr S applied for finance to acquire a used car. The cash price of the car was £9,007. Mr S entered into a hire purchase agreement with Advantage to finance the full amount. After interest and charges the total amount due was £16,937.80, repayable in 59 monthly instalments of £279.38 and a final payment of £454.38.

In September 2024 Mr S contacted Advantage to complain about an undisclosed commission payment. Advantage didn't uphold Mr S's complaint. In summary, it said the documents Mr S was provided with disclosed that commission might be paid. It added that it paid a small, fixed sum of commission to the broker who introduced Mr S to it. Advantage didn't comment on the fees and charges it applied to Mr S's account.

Mr S referred his complaint to our service, where one of our investigators looked into what had happened. He concluded that Advantage hadn't treated Mr S unfairly or acted unreasonably when it entered into the hire purchase agreement with him.

Mr S didn't agree and asked for an ombudsman's decision – and so the complaint has come to me.

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.

I realise my decision will likely come as disappointing news, but having carefully considered everything, I have decided not to uphold Mr S's complaint. I'll explain why.

In the joined cases of *Hopcraft, Johnson & Wrench*¹, the Supreme Court considered how the law applies to claims relating to motor finance commission.

Broadly speaking, the Supreme Court concluded that the relationship between a motor finance lender and a consumer could sometimes be unfair to the consumer (under s140

¹ *Hopcraft and another (Respondents) v Close Brothers Limited (Appellant); Johnson (Respondent) v FirstRand Bank Limited (London Branch) t/a MotoNovo Finance (Appellant); Wrench (Respondent) v FirstRand Bank Limited (London Branch) t/a MotoNovo Finance (Appellant)* [2025] UKSC 33

CCA) in circumstances where neither the car dealer nor the lender disclosed that:

- there was a discretionary commission arrangement (“DCA”) – an arrangement where the commission paid was linked to the loan interest rate and the broker had the discretion to set a higher interest rate to receive more commission.
- the car dealer would receive a high commission relative to the cost of credit or amount borrowed.
- the car dealer was required to select the lender in preference to other lenders the car dealer could offer. This is sometimes referred to as a commercial tie or a right of first refusal.

In Mr S’s case Advantage has provided evidence to show that it paid the finance broker a commission of £500 for introducing his business – this being a flat rate. Mr S’s complaint is effectively that the undisclosed commission payment of £500 that Advantage paid to his broker resulted in the lending relationship between Advantage and him being unfair to him under S140 CCA.

I’ve not been persuaded that the existence of commission (in this case £500), was disclosed to Mr S. That said, I consider it more likely than not that a court would not find that the lending relationship between Advantage and Mr S was unfair to Mr S under S140 CCA.

I think it is likely – and certainly more likely than not – that a court would not find any failure to disclose the £500 commission payment to Mr S means that the lending relationship between Advantage and Mr S was unfair to Mr S. And I’m not persuaded that Advantage failed to act fairly and reasonably in all the circumstances of this complaint. This is because:

- the commission of £500 did not involve a DCA. So, the broker didn’t have discretion to set Mr S’s interest rate.
- I think it more likely than not that a court would not consider the £500 commission payment to be high when compared to the amount Mr S borrowed, or the cost of the agreement Mr S entered into.
- I don’t think it’s likely that the commission of £500 would have been a major consideration in Mr S’s mind, had it been disclosed to him at the time of entering into the hire purchase agreement, when the commission payment represented less than 5.6% of the amount he borrowed and only 5.99% of the total cost of the credit.
- I think it’s more likely than not that a court would not consider that a commercial tie existed between Mr S’s broker and Advantage. In reaching this view, I have reviewed a range of contracts and agreements that Advantage had with various brokers over several years. I’ve seen nothing in any of these agreements indicating that Advantage had contractual ties with any of the motor dealers and brokers that it worked with. I consider this to be consistent with Advantage’s position within the market as a lender serving customers that typically find it difficult to obtain credit from more mainstream lenders and have less choice as a result. In this context, I’ve not seen anything to support an argument that a commercial tie existed between Advantage and the finance broker.

I’ve noted what Mr S has said about not being able to obtain credit elsewhere and the cost of the agreement being high. I’m satisfied the cost of the credit was set out and I can’t see that the agreement was unaffordable for him either. So, it’s unclear to me how knowing about the commission would have impacted Mr S’s decision to take out the finance with Advantage, given that by his own admission he couldn’t easily get credit and bearing in mind he knew the cost of the agreement.

Given that Advantage paid a fixed amount of commission and it wasn't a DCA model, so there was no direct connection between the commission payment and the interest rate Mr S received, I'm satisfied that if Mr S had been aware of the commission arrangement between Advantage and his broker it wouldn't have impacted his decision to take out the credit agreement. And for that reason, I'm not upholding this part of Mr S's complaint.

Mr S has also complained about the fees and charges Advantage applied to his agreement when the agreement defaulted. He said the charges were excessive and beyond the reasonable costs Advantage incurred. Based on what I've seen Mr S's direct debit failed eight times between May 2016 and September 2020. Advantage's internal notes show that it wrote to Mr S each time to advise him of the returned direct debit and where applicable any arrears that had built up.

Looking at Mr S's account statements, I can see that between May 2016 and October 2017 Advantage applied five unpaid direct debit fees, three arrears management fees, and one charge for a telephone call. However, I can also see Advantage reversed the telephone call fee (in May 2016), one unpaid direct debit fee and one arrears management fee October 2017.

Next, I've looked at the hire purchase agreement Mr S signed on or around 22 February 2016. There's a heading called 'Charges' and underneath this is the following table:

Charge for processing an unpaid cheque, direct debit or scheduled card payment	£12	Administration charge for dealing with a change of payment date	£5
Monthly management charge for overdue accounts	£12	Charge for sending arrears letters (other than legal notices)	£12
Charge for a phone call in connection with missed payments	£12	Administration charge if we have to end this agreement	£50

I think the table sets out clearly the amount and the circumstances in which Advantage would apply charges. Looking at the account statement and the customer notes, I'm satisfied Advantage applied the charges in line with the agreement after Mr S's direct debit failed on several occasions. The amount of the charges is in line with industry norm, so I'm not persuaded they were excessive. Overall, I find Mr S was made aware of the charges and so I'm satisfied Advantage didn't apply them unfairly.

In summary, while I recognise that Mr S will be disappointed with my decision, I haven't seen anything that leads me to conclude that Advantage treated Mr S unfairly in relation to the commission arrangement or the charges and fees it applied. For that reason, I've decided not to uphold his complaint.

My final decision

For the reasons I've explained, I'm not upholding Mr S's complaint

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 19 May 2026.

Anja Gill
Ombudsman