

The complaint

Mr S complains that AutoMoney Limited trading as AutoMoney Finance (AutoMoney) irresponsibly granted him a hire purchase agreement that he couldn't afford to repay.

What happened

In November 2019 Mr S acquired a vehicle financed by a hire purchase agreement from AutoMoney. Mr S paid a deposit of £500 and was required to make a first instalment of £415.24, 58 monthly repayments of £366.24 and a final instalment of £465.24. The total amount repayable under the agreement was £22,122.40. Mr S believes AutoMoney failed to complete adequate affordability checks. Mr S says that if it had asked for bank statements it would've been clear that the agreement wasn't affordable.

AutoMoney disagreed. It said it carried out an adequate assessment which included a full credit search, income verification through payslips and a full expenditure assessment. It said these searches showed Mr S's existing borrowing levels were moderate and that whilst he had defaults, all but one were recorded over 12 months prior to the application. AutoMoney said the searches showed these accounts were being well managed and there was no record of county court judgements on his file. It used payslips to calculate Mr S's earnings and completed an expenditure assessment with Mr S in order to determine his outgoings which Mr S confirmed as accurate.

Our Investigator didn't recommend that the complaint should be upheld. They thought AutoMoney's checks were proportionate and that it was reasonable for Automoney to have approved the lending on the information its checks provided.

Mr S didn't agree. He felt that at the time his need for a vehicle and lack of other finance options had meant he'd fabricated some of his financial circumstances, and hadn't been accurate about his expenditure. He felt that this should have been spotted by AutoMoney and that requesting bank statements would've revealed these discrepancies. He asked for an Ombudsman to issue a final decision on the matter.

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.

Where evidence is incomplete, inconsistent, or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available evidence and wider circumstances.

We explain how we handle complaints about irresponsible and unaffordable lending on our website. I've used this approach to help me decide Mr S's complaint. AutoMoney needed to ensure that it didn't lend irresponsibly as per the rules set out in the FCA's Consumer Credit Sourcebook (CONC). In practice, what this means is that AutoMoney needed to carry out proportionate checks to be able to understand whether any lending was affordable for Mr S before providing it.

In this case, there are two overarching questions that I need to answer to fairly and reasonably decide Mr S's complaint. These two questions are:

1. Did AutoMoney complete reasonable and proportionate checks to satisfy itself that Mr S would be able to repay his loan without experiencing significant adverse consequences?
 - If so, did it make a fair lending decision?
 - If not, would those checks have shown that Mr S would've been able to do so?
2. Did AutoMoney act unfairly or unreasonably in some other way?

Did AutoMoney complete a reasonable and proportionate affordability check?

AutoMoney was required to ensure it carried out adequate checks on Mr S's ability to sustainably afford the agreement. These checks had to be borrower-focussed and proportionate (see CONC 5.2A). What is considered proportionate will vary depending on the circumstances, such as (but not limited to): the total amount repayable, the size of the monthly repayments, the term of the agreement (CONC 5.2A.20 R), and the consumer's specific circumstances.

I'm satisfied that AutoMoney gathered a reasonable amount of information from Mr S about his income prior to approving the finance. I say this because apart from a full credit check it also obtained two months of payslips to verify his income and went through a full expenditure questionnaire with Mr S. It's provided me with this information to review.

So, at the time of the application I'm satisfied that the information AutoMoney gathered showed Mr S had eight defaults recorded against him, one of which was recorded within one year of the agreement being taken out. I do think this ought to have indicated Mr S may have been struggling financially and so I would've expected AutoMoney to take further consideration of Mr S's financial situation before approving any lending. And I'm satisfied that this is exactly what it did – it has provided me with the payslips it used to separately verify Mr S's income and the questionnaire its underwriter completed with Mr S to verify his expenditure.

I understand Mr S feels that it should have been obvious some of the information he disclosed was inaccurate and I've thought about this carefully. CONC 5.3.7R states:

"A firm must not accept an application for credit under a regulated credit agreement where the firm knows or ought reasonably to suspect the customer has not been truthful in completing the application in relation to the information supplied by the customer relevant to the creditworthiness assessment or the assessment required by CONC 5.2.2R (1)"

I can't see any reason that AutoMoney should have reasonably suspected Mr S was not being truthful when completing his application. This is because there is nothing within the information it had available at the time which would've disproved Mr S's statement that he lived with his father-in-law who paid his rental costs. I also can't see how AutoMoney could've reasonably suspected that Mr S chose to not disclose a loan he owed his father – as an informal arrangement such as this does not appear on any credit searches and would rely on Mr S informing AutoMoney. Mr S had confirmed the details he provided were all correct and truthful – without contradictory information available to it I don't think it's unreasonable for AutoMoney to have accepted Mr S's answers to its questions.

So, whilst I appreciate Mr S feels strongly that bank statements should have been requested by AutoMoney I'm not satisfied that AutoMoney needed to perform any more checks than it did at the time as I don't think there was a reason for AutoMoney to suspect Mr S had not been truthful.

Overall, I'm satisfied that AutoMoney gathered a reasonable and proportionate amount of evidence and information to be able to adequately assess whether the agreement was affordable and sustainable for Mr S. However, this doesn't automatically mean it made a fair a lending decision.

Did AutoMoney make a fair lending decision?

I've considered the payslips and expenditure details obtained at the time. The information gathered showed Mr S had around £1570 in monthly expenditure (including commitments, bills, food, fuel, clothing and general spending) versus an average income of around £2,120 per month. I'm satisfied that these figures are accurate what were disclosed at the time, and that altogether Mr S's income and expenditure meant the agreement did not appear to be unaffordable.

I'm satisfied from the information provided that it was likely that Mr S had more than sufficient disposable income to meet the monthly repayments and have money left over each month for emergency or unexpected costs. Whilst the credit check did show Mr S had some prior adverse information relating to other credit commitments, I'm satisfied that the information gathered from Mr S at the time demonstrated that Mr S had the ability to maintain the repayments and have disposable income left over for other costs.

AutoMoney was entitled to lend to Mr S even if he had a previous poor history of repaying credit, but if it did so it needed to ensure it was affordable and sustainable. From the information disclosed at the time it seems Mr S still had sufficient disposable income each month to make reasonable repayments towards his debts, his other credit commitments and the new finance agreement in a sustainable way. From everything I've seen I can't reasonably say AutoMoney acted unfairly when approving Mr S's finance agreement.

Did AutoMoney act unfairly or unreasonably in some other way?

I'm not persuaded from the submissions made to date that AutoMoney acted unfairly or unreasonably in some other way.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 23 October 2023.

Paul Clarke
Ombudsman