

The complaint

Mr H complains about the affordability of a hire purchase agreement provided by Advantage Finance Limited (Advantage).

Mr H is represented by a claims management company (CMC) but for ease of reading, I'll refer to everything that's been said on his behalf as if Mr H said it himself.

What happened

In June 2018 Mr H acquired a used caravan through a hire purchase agreement with Advantage. The agreement ran for 60 months, Mr H was required to make 59 monthly repayments of £313.75 and a final payment of £488.75.

In December 2022 Mr H complained to Advantage. In summary he said the finance should've been deemed unaffordable as he had very little, or no money left over after paying his bills and debts each month. He also said his income changed between taking out and repaying the lending, but Advantage didn't check.

Advantage looked into Mr H's concerns but didn't uphold the complaint. In summary, it said appropriate checks had been made as to whether Mr H could afford the agreement and said the loan was affordable.

Mr H remained unhappy and so referred his complaint to the Financial Ombudsman. Our Investigator didn't recommend the complaint be upheld because she didn't think there was enough evidence or information to suggest the agreement wasn't affordable to Mr H.

Mr H didn't agree and asked for an Ombudsman to review the case.

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'll explain below why I've decided Advantage don't need to do anything more to resolve this complaint.

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

I'm going to consider these rules in the following stages:

1. Did Advantage complete reasonable and proportionate checks to satisfy itself that Mr H would be able to sustainably repay the borrowing?
 - a. If it did, was the decision to then lend to Mr H fair?
 - b. If it didn't, would reasonable and proportionate checks have shown that Mr H could sustainably repay the borrowing?

2. Did Advantage act unfairly or unreasonably in some other way?

Did Advantage complete reasonable and proportionate checks to satisfy itself that Mr H would be able to sustainably repay the borrowing?

What's considered reasonable and proportionate will vary depending on the details of the borrowing and the borrower's individual circumstances.

Before granting the finance, I think Advantage gathered a reasonable amount of evidence and information from Mr H about his ability to repay. I say this because it completed a credit check in order to understand how Mr H managed his existing and previous finance arrangements. It also verified Mr H's income using Current Account Turnover data, confirmed his accommodation type, his employment and that he had no dependents. It used statistical data specific to Mr H's location and household to estimate his likely expenditure on rent, utilities and council tax.

Advantage also considered what would have been left over to cover other expenditure and made an allowance of approximately £1,300. It noted that even after the estimated expenses had been taken into account, Mr H would have had enough disposable income to afford monthly repayments of £313.75.

I think Advantage made a reasonable assessment of Mr H's likely expenditure and, whilst I accept Advantage didn't consider every individual expense Mr H was likely to incur, it had allowed around £1,300 for those expenses. I think this was a considerable amount of headroom after the main expenses of rent, utilities and council tax had been taken into consideration.

Having said that, I've reviewed the credit check provided by Advantage and I don't think the checks were proportionate, given that the check revealed amongst other things that Mr H had a county court judgement with an outstanding balance. Further, he had two additional hire purchase (HP) agreements prior to taking this one out with Advantage. Both HP agreements had outstanding balances and were intended to run for a considerable length of time. These three active accounts alone had a total outstanding balance of approximately £14,300. I also think Advantage could've been more specific in asking Mr H about his monthly expenditure to assess his circumstances at the time, rather than relying on statistical data.

Advantage says, due to Mr H passing its internal credit check it didn't think it needed to verify anything further before approving the finance. But given the outstanding amount of the active accounts along with the overall size of the borrowing, the monthly repayments and the term of the agreement I think it would have been proportionate for Advantage to have done more to ensure it was affordable. So, I find Advantage didn't complete proportionate checks in the circumstances of this case.

Would reasonable and proportionate checks have shown that Mr H could sustainably repay the borrowing?

I've thought about whether Advantage would still have chosen to lend money to Mr H if it had carried out reasonable and proportionate checks.

I can't be certain what evidence Advantage would have asked Mr H to provide or what questions it would have asked him. But having reviewed Mr H's credit file I can see he had two active current accounts. I've seen some bank statements for one account but Mr H has failed to provide a set of statements for his other account as he said he doesn't recall having another account. He doesn't deny being employed at the time, but he also hasn't provided other evidence such as pay slips.

Having reviewed the bank statements Mr H has sent us I don't think they contain enough information to establish what his daily living and committed expenditure at the time would have likely been. This is because the bank statements provided show little committed

monthly expenses and do not show any form of employment income. I appreciate Mr H has said he received his employment income by other means, but again he hasn't provided any evidence for me to consider this further. And so, I'm unable to see what his overall income and expenditure was at the time, this means I can't say that the agreement should have been considered unaffordable.

I have thought about the income and expenditure Advantage considered in 2018. From the information it provided I can see it estimated Mr H would've been left with a disposable income of around £1,300 out of which making a monthly repayment of £313.75 would've been affordable. So even if Advantage had completed reasonable and proportionate checks, I think it's fair to determine that the repayments would've appeared to be affordable. I'm therefore not persuaded that Advantage acted unfairly in approving the finance.

As Mr H hasn't been able to demonstrate that his agreement was unaffordable, I can't reasonably conclude that Advantage ought to have known he may struggle to make the repayments due under the agreement.

I appreciate Mr H has indicated that the borrowing was unaffordable but the question for me is what Advantage would have been able to find out if it requested further information from him at the time of lending. But as I've said, in the absence of any information from Mr H I am unable to see what Advantage would likely have seen if it had carried out further checks.

Advantage has provided me with what information it did rely on which I've outlined above and based on this I can't fairly say it made an unfair lending decision.

Did Advantage act unfairly or unreasonably in some other way?

Whilst I've carefully thought about everything Mr H has told us, I'm afraid it doesn't affect my findings. I don't think there is enough evidence or information to suggest the agreement was unaffordable for Mr H, or that Advantage acted unfairly or unreasonably towards him in any other way.

My final decision

For the reasons outlined above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 6 September 2023.

Rajvinder Pnaiser
Ombudsman