DRN-4535901

The complaint

Mr S is complaining about Advantage Finance Ltd. He says they were irresponsible in lending to him because the repayments were unaffordable. Mr S's complaint has been brought to us by a representative but for ease of reading I've written as if we've dealt directly with him throughout.

What happened

In January 2019, Mr S took out a hire purchase agreement with Advantage to finance the purchase of a vehicle. He paid no deposit and borrowed £2,295 - the cash price of the car. The agreement required Mr S to make 35 monthly repayments of £97.65 and a final instalment of £272.65 – so the total amount payable was £3,690.40. Mr S made all his payments on time, settling the agreement in February 2022.

In May 2023, Mr S complained to Advantage, saying they'd failed to adequately assess whether the agreement was affordable for him. He said at the time of the agreement he'd had several defaults and a County Court Judgment (CCJ) recorded against him.

Advantage didn't uphold Mr S's complaint. They said Mr S had said on his application that he was single with no dependents, living in rented accommodation and working full time. They said they'd verified his income at around £1,317 per month and used statistical data to estimate his expenditure. Advantage added that they checked Mr S's credit file and included the actual credit repayment costs indicated on there in their income and expenditure assessment. They calculated that Mr S had sufficient headroom to comfortably afford the loan.

Mr S was unhappy with Advantage's response so brought his complaint to our service. One of our investigators looked into it but didn't uphold it. She said from the evidence she'd seen, she thought Advantage hadn't conducted proportionate checks. But when she looked at Mr S's bank statements from the time of lending, she thought these showed the agreement was affordable for Mr S.

Mr S replied, saying that his overdraft usage at the time of the lending decision was a concern and would only increase if he took on an additional finance agreement. And he said his credit card repayments suffered within months of entering into this agreement. He said this showed Advantage hadn't considered whether Mr S would be able to sustainably make repayments under the agreement. Because Mr S disagreed with our investigator, the complaint was referred for a decision – and it's 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.

Having done so, I'm not upholding Mr S's complaint for broadly the same reasons as our investigator – I'll explain further below.

The Financial Conduct Authority (FCA) sets out in a part of its handbook known as CONC what lenders must do when deciding whether or not to lend to a consumer. In summary, a firm must consider a customer's ability to make repayments under the agreement without having to borrow further to meet repayments or default on other obligations, and without the repayments having a significant adverse impact on the customer's financial situation.

CONC says a firm must carry out checks which are proportionate to the individual circumstances of each case.

Did Advantage carry out proportionate checks?

Advantage said they carried out the following checks:

- reviewed Mr S's credit file;
- used statistical data to estimate Mr S's expenditure; and
- verified Mr S's income by taking his average net income for the tax year to date from his December 2018 payslip.

They arrived at monthly income of £1,317, housing costs (including utilities and council tax) of about £690 and payments to creditors of around £230. Advantage said this left Mr S with around £400 per month to cover other household expenditure and the repayments on this agreement, which they said meant he could comfortably afford the loan he was looking for.

Whether or not these checks were proportionate depends on various factors, including the size and length of the loan, the cost of credit, and what Advantage found. The loan was a moderate amount, for three years, and at a high interest rate – so my starting point is that checks needed to be thorough.

CONC allows firms to use statistical data in their affordability assessments unless they have reason to suspect that a customer's non-discretionary expenditure is significantly higher than that described in the data.

Advantage said Mr S's credit file didn't give them any particular cause for concern. They said it showed a CCJ but the amount was only £197. And they said it showed he'd previously managed a hire purchase agreement with payments of £89 per month with a perfect payment history.

I've looked at the credit report Advantage used and I can see Mr S had a CCJ dated February 2018. He had total current balances of around £7,200, most of which was on credit cards. I can't see any evidence of missed payments or any adverse information other than the CCJ. But the CCJ was relatively recent, and the credit balances relatively high in comparison to Mr S's income, so I think it would have been proportionate for Advantage to have taken additional steps to understand Mr S's expenditure before lending to him.

If Advantage had carried out proportionate checks, what would they have found?

As I've explained above, I think proportionate checks would have involved Advantage finding out more about Mr S's expenditure and comparing this to his income.

I've looked at statements for Mr S's bank account for the three months leading up to his application to Advantage. I'm not saying Advantage needed to look at Mr S's statements but in the absence of any other information, bank statements provide a good indication of Mr S's expenditure at the time the lending decision was made.

Having done so, I can see Mr S was paying around £470 per month to his partner in contributions towards rent and bills. His payments for communications and TV totalled around £170 per month. In addition, his payments to creditors were higher than Advantage had estimated, at £320 per month, and he was paying £37 per month for life insurance. Mr S was also spending around £175 each month on transport, including fuel and road tax on his existing vehicle, and around £100 per month on food. The total of this committed and non-discretionary expenditure is around £1,277 per month. Mr S was also paying £89 per month towards a hire purchase agreement on a vehicle but this was to be replaced with the Advantage agreement so it wouldn't have been necessary for Advantage to include this in an income and expenditure assessment.

At this point, I think Advantage would likely have looked again at Mr S's income as these figures would suggest his income was less than his regular outgoings. When they did so, they'd have seen his net income for each of the three months prior to the lending decision was £1,631. This was regular employment income of the same amount each month and therefore reliable. Mr S had other income from his employer and from another party but these amounts were very variable so Advantage couldn't have fairly included them in an income and expenditure assessment.

In summary, I think there were a number of indicators on Mr S's credit file which should have prompted Advantage to do more to understand Mr S's expenditure. But if they had, they'd have realised that his committed and non-discretionary expenditure totalled around £1,277 per month and his regular income was £1,631 per month – so he had around £355 per month from which to make the payments needed against the agreement, of £98 per month. That would have left Mr S with around £255 per month for discretionary expenditure and emergencies – which suggests the agreement should have been affordable for him. So even if Advantage had carried out proportionate checks, they could have fairly decided to lend to Mr S.

Mr S has commented that he used his overdraft for around half of each month. And he's said this agreement put him in a much worse financial position than he'd been in before. Having reviewed Mr S's bank statements, I've seen that he had a moderate amount of discretionary expenditure – which I wouldn't expect to be factored into an affordability assessment. And I note that this agreement increased his spending on car finance by less than £10 - from £89 per month to £98 per month - so I'm not satisfied that any financial difficulties Mr S later experienced were as a result of Advantage's decision to lend to him.

My final decision

As I've explained above, I'm not upholding Mr S's complaint about Advantage Finance Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 12 February 2024.

Clare King
Ombudsman