

Complaint

Miss J complains that Advantage Finance Ltd (“Advantage Finance”) unfairly entered into a hire-purchase agreement with her. She’s effectively said that the payments to the agreement were unaffordable and so it shouldn’t have been provided to her.

Background

In November 2021, Advantage Finance provided Miss J with finance for a used car. The cash price of the vehicle was £4,995.00 and Miss J paid a deposit of £400 and applied for finance to cover the remaining £4,595.00.

As a result she entered into a 54-month hire-purchase agreement with Advantage Finance. The loan had interest, fees and total charges of £4,040.34 (comprising of interest of £3,515.34, an acceptance fee of £325 and an option to purchase fee of £200), and the total amount to be repaid of £8,635.43 (not including Miss J’s deposit) was due to be repaid in 53 monthly instalments of £156.21 and one final payment of £356.21.

When it investigated Miss J’s complaint Advantage Finance didn’t uphold it. Nonetheless, it said as Miss J’s circumstances had changed for the worse since the agreement was taken and she entered into a Debt Relief Order, it was prepared to write off the remaining balance left after Miss J voluntarily surrendered the vehicle in February 2023. Miss J rejected Advantage Finance’s offer and referred her complaint to our service.

Miss J’s complaint was considered by one of our investigators. He didn’t think that Advantage Finance had done anything wrong or treated Miss J unfairly. So he didn’t recommend that Miss J’s complaint should be upheld. Miss J 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.

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 Miss J’s complaint.

Having carefully thought about everything I’ve been provided with, I’m not upholding Miss J’s complaint. I’d like to explain why in a little more detail.

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 Miss J could make her payments in a sustainable manner before agreeing to lend to her. And if the checks Advantage Finance carried out weren’t sufficient, I then need to consider what reasonable and proportionate checks are likely to have shown.

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 it completed an income and expenditure assessment on Miss J. During this assessment, Miss J provided details of her monthly income which it cross checked against information received from credit reference agencies on the amount of funds she received in her main bank account each month.

Advantage Finance also says it also carried out credit searches on Miss J which showed some previous adverse credit information and outstanding balances. But when the amount Miss J already owed plus a reasonable amount for Miss J's living expenses, based on statistical data, were deducted from her monthly income the monthly payments were still affordable.

On the other hand, Miss J says she was already struggling at the time and that these payments were unaffordable.

I've thought about what Miss J and Advantage Finance have said.

The first thing for me to say is that I don't think that the checks Advantage Finance carried out did go far enough. Advantage Finance's searches showed that Miss J had had previous difficulties with credit. In my view, Advantage Finance needed to take further steps to verify Miss J's actual living costs, given what the credit search showed in order for its checks to have been proportionate.

As Advantage Finance didn't carry out sufficient checks, I've gone on to decide what I think Advantage Finance is more likely than not to have seen had it obtained further information from Miss J. Bearing in mind, the length of time of the agreement and the amount of the monthly payment, I would have expected Advantage Finance to have had a reasonable understanding about Miss J's regular living expenses as well as her income and existing credit commitments.

I've considered the information Miss J has provided us with. And having done so, this information does appear to show that when Miss J's committed regular living expenses and existing credit commitments are deducted from her monthly income at the time, she did have the funds, at the time at least, to sustainably make the repayments due under this agreement. I appreciate that Miss J is unhappy that only 10% of her income was left to her after all her commitments were met and this was insufficient.

However, I disagree. While I don't wish to get into a discussion over what a forensic analysis of what Miss J's bank statements is likely to have shown, given Advantage Finance was not required to review Miss J's bank statements in the first place, the amount Miss J is disputing wasn't sufficient enough to be left over is more than the amount of her monthly payments. I don't think it would have been unreasonable for Advantage Finance to conclude that Miss J would have sufficient funds to make the repayments to this agreement even if it had arrived at the disposable income figure Miss J has.

So overall and having carefully considered everything, while I don't think that Advantage Finance's checks before entering into this hire-purchase agreement with Miss J did go far enough, I'm satisfied that carrying out reasonable and proportionate checks won't have

prevented Advantage Finance from providing these funds, or entering into this agreement with her. I'm therefore satisfied that Advantage Finance didn't act unfairly towards Miss J when it agreed to provide the funds and I'm not upholding Miss J's complaint.

I appreciate that this will be very disappointing for Miss J. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to. As I'm not upholding the complaint, I leave it to Miss J to contact Advantage Finance to see whether it is still willing to write off the remaining amount due in the way that it suggested in its final response.

My final decision

My final decision is that I'm not upholding Miss J's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 6 May 2024.

Jeshen Narayanan
Ombudsman