

The complaint

Mr C complains APFIN LTD trading as cashasap.co.uk (“Apfin”) provided him with a loan when he had a poor credit score and an outstanding County Court Judgement (CCJ).

What happened

Mr C was granted one loan on 26 July 2022 for £250. Mr C was due to make six monthly payments – which decreased each month. The first payment was for £113.18 with the final payment due was to be £52.24.

Mr C says the outstanding balance has since been sold to a third-party collection agency although Apfin explained in the final response letter that the third party was acting on its behalf.

Apfin considered the complaint, and it didn’t uphold it. It said the loan value was a small portion of Mr C’s declared monthly income and it was entitled to rely on the information Mr C had provided it, which showed the loan to be affordable. It also said that it was unaware of the CCJ Mr C had referred too. Finally, Apfin offered to:

“...write off all the interest you incurred on this loan as a full and final settled of your complaint. The interest right off totals £250 and reduces your balance to the original loan principal of £250 only.”

Unhappy with this response and offer, Mr C referred his complaint to the Financial Ombudsman. The complaint was considered by an investigator, who didn’t uphold it. She said Apfin had reasonable grounds to believe Mr C could afford the loan and that it had carried out proportionate checks.

Mr C didn’t agree and instead asked for an ombudsman’s final decision. In summary he said:

- The CCJ was on his credit file at the time and Apfin ought to have known about it.
- Apfin is now attempting to recover significantly more than what was advanced to Mr C.
- Apfin ought to have asked to review his bank statements before the loan was advanced.

As no agreement could be reached, the case has been passed to an ombudsman for a decision.

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.

We’ve set out our general approach to complaints about this type of lending - including all the relevant rules, guidance and good industry practice - on our website.

Apfin had to assess the lending to check if Mr C could afford to pay back the amount he'd borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. Apfin's checks could have taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mr C's income and expenditure.

With this in mind, I think in the early stages of a lending relationship, less thorough checks might have been proportionate. But certain factors might suggest Apfin should have done more to establish that any lending was sustainable for Mr C. These factors include:

- Mr C having a low income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- The amounts to be repaid being especially high (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- Mr C having a large number of loans and/or having these loans over a long period of time (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable);
- Mr C coming back for loans shortly after previous borrowing had been repaid (also suggestive of the borrowing becoming unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable for Mr C. The investigator didn't consider this applied in Mr C's complaint because there was only one loan and I would agree.

Apfin was required to establish whether Mr C could *sustainably* repay the loan – not just whether he technically had enough money to make his repayments. Having enough money to make the repayments could of course be an indicator that Mr C was able to repay his loan sustainably. But it doesn't automatically follow that this is the case.

I've considered all the arguments, evidence and information provided in this context, and thought about what this means for Mr C's complaint.

Before the loan was approved, Apfin asked Mr C for details of his income, which he declared as being £1,800 per month. As this was the first loan, and Mr C confirmed this figure to be accurate, Apfin didn't need to take any further steps to verify this figure.

Mr C also declared monthly outgoings of £1,100 and this was broken down into a number of different categories such as rent, utilities and other credit / loan repayments. For a first loan, I think it was reasonable for Apfin to have relied on what Mr C told it about his income and expenditure.

After carrying out these checks, Mr C had sufficient disposable income to be able to afford the largest repayment of no more than £113.18 per month. The loan would've looked affordable.

Before the loan was approved Apfin also carried out a credit search and it has provided a summary of the results it received from the credit reference agency. It is worth saying here that although Apfin carried out a credit search, there isn't a regulatory requirement to do one, let alone one to a specific standard. But what Apfin couldn't do is carry out a credit search and then not react to the information it received – if necessary.

Having reviewed the credit check results there isn't anything that would've indicated that Mr C was having current financial difficulties, for example it knew there were no insolvency

markers or a CCJ. I appreciate that Mr C says he had a CCJ at the time, but that information wasn't reflected in the credit check results given to Apfin by the credit reference agency.

The headline figures were that Apfin knew that Mr C had eight active credit accounts and hadn't opened any other accounts within the last six months. The number of active accounts as well as the fact no new accounts were opened within the last six months, in my view wouldn't have indicated to Apfin that Mr C was reliant on this sort of credit.

It also knew that Mr C had one default, recorded in August 2021. So a year before this loan was advanced. But Apfin knew, from the credit results that no further accounts had defaulted since then and while there had been some repayment problems on an account that had entered delinquency, Mr C was now making payments towards rectifying the situation. I don't think the information about the default or the delinquent account would've prompted Apfin to either carry out further checks or to have declined Mr C's application for credit.

Given the evidence provided, I think it was reasonable for Apfin to have relied on the information Mr C gave about his income and expenditure to show he had sufficient disposable income to afford the repayments he was committed to making. There also wasn't anything else to suggest that Mr C was having financial difficulties or that the loan would be unsustainable for him.

I appreciate Mr C will be disappointed by the decision I've reached on this case but having reviewed all the information I am not upholding Apfin's decision to lend.

Other considerations

Mr C has said that Apfin is trying to collect too much money from him. It's worth saying here, that had Mr C repaid the loan in line with the credit agreement then he would've repaid, in total just over £472.

In 2015, the industry regulator introduced a cost cap for these types of loans. What this means is that in effect a lender can't collect more than 100% of the amount borrowed including any interest, fees and charges. Taking this loan as an example, this means the maximum amount that Apfin could collect from Mr C is £500.

As I've shown above, had Mr C paid the loan in line with the credit agreement he would've paid less than the amount allowed under the cost cap. Apfin, has recently confirmed that the outstanding balance that is being asked to be repaid is £500 – which as per the cost cap is the maximum amount that could be collected. I therefore can't conclude that Apfin has made an error in the amount that it is seeking from Mr C because the outstanding balance that is due is at the cost cap set by the regulator.

I am also sorry to hear about the impact Mr C has said this loan has had on his mental health, I do hope things have improved for him. I've also, as part of this reviewed the contact between Mr C and Apfin after his account went into arrears.

I can see that Apfin contacted Mr C on average once every four days by text message and email letting him know about the arrears on his account. I don't think this contact was excessive or as far as I can see sent at an unreasonable time of the day. Apfin is entitled to let Mr C know that the account is in arrears and that payment needs to be made. Based on the evidence that has been provided, I can't say Apfin has made an error with how it contract and how frequently it contacted Mr C.

Finally, an outstanding balance remains due, and I would remind Apfin of its obligation to treat Mr C fairly and with forbearance.

Apfin has already made an offer to reduce what Mr C owes to just the capital sum in order to settle the complaint. Mr C should contact Apfin directly if he now wishes to accept this offer.

My final decision

So, for the reasons I've explained above, I don't think APFIN LTD trading as cashasap.co.uk needs to do anything to settle the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 13 March 2024.

Robert Walker
Ombudsman