

The complaint

Miss J complains APFIN LTD trading as cashasap.co.uk (“Apfin”) provided her with a loan which wasn’t affordable and during a time when she was struggling with priority bills.

What happened

Miss J was granted one loan on 29 October 2022 for £400. Miss J was due to make three monthly payments – which decreased each month. The first payment was for £235.03 with the final payment due to be £167.24. The loan was repaid on 24 April 2023.

Apfin considered the complaint, and it didn’t uphold it. Unhappy with this response Miss J referred her 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 Miss J could afford the loan and that it had carried out proportionate checks.

Miss J didn’t agree saying that as part of her application Apfin had access to her bank statements through open banking. The Investigator then made further enquires with Apfin who confirmed open banking was used as part of the application – and the data and summary of what it received was provided. Having considered the information the Investigator was still of the opinion that Apfin had made a fair lending decision.

As no agreement has been reached, the case has been passed to an ombudsman for a final 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 Miss J could afford to pay back the amount she’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 Miss J’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 Miss J. These factors include:

- Miss J 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);
- Miss J 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);
- Miss J 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 Miss J. The Investigator didn't consider this applied in Miss J's complaint because there was only one loan and I agree.

Apfin was required to establish whether Miss J could *sustainably* repay the loan – not just whether she technically had enough money to make her repayments. Having enough money to make the repayments could of course be an indicator that Miss J was able to repay her 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 Miss J's complaint.

Before the loan was approved, Apfin asked Miss J for details of her income, which she declared as being £3,700 per month. Miss J also declared monthly outgoings of £2,800 for the loan and this was broken down into a number of different categories such as rent, utilities and other credit / loan repayments.

Apfin has confirmed that while open banking was used it didn't have access to her copy bank statements. Apfin has said it reviewed three months' worth of transaction data. The extracted data was then categorised together, added up and then divide by the number of months it reviewed, in this case three.

I've taken a look at the summary data provided by Apfin, and it does seem based on the information provided to Apfin that Miss J's total income when her salary and tax credits were combined was larger than the income, she'd declared to Apfin. However, for the affordability assessment it erred on the side of caution and used the amount Miss J declared, which I don't think was unreasonable.

As part of her complaint submission, Miss J provided details of her active loans she had with three other providers, and I can see those companies listed in the payments that Apfin was given as part of the open banking data. So, it was fully aware of them and took them into account.

Like the Investigator, I can see from the data one returned direct debit from a mobile phone / broadband / TV subscription provider – but I can't see any other returned or missed payments within the months leading up to the loan being approved. Solely, based on the information Apfin received from the open banking I think it made a reasonable decision to advance the loan.

In addition, to asking Miss J about her income and expenditure and reviewing open banking data, 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 in any of the results that would've indicated that Miss J was having current financial difficulties, for example it knew

there were no insolvency markers or CCJ. There were also no delinquent accounts within the last year and no defaults recorded within the last 36 months.

The headline figures were that Apfin knew that Miss J had 17 active credit accounts and had opened two accounts within the last six months. The number of active accounts as well as the fact the credit report said there were only two accounts opened within the last six months, in my view wouldn't have indicated to Apfin that Miss J was reliant on this sort of credit.

Given the evidence provided, I think it was reasonable for Apfin used the information from open banking and what Miss J provided which showed she had sufficient disposable income to afford the repayments she was committed to making. There also wasn't anything else to suggest that Miss J was having financial difficulties or that the loan would be unsustainable for her.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think Apfin lent irresponsibly to Miss J or otherwise treated her unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

Apfin made a goodwill gesture in the final response, so I leave it up to Miss J to contact Apfin to see whether the offer is still available.

I appreciate Miss J will be disappointed by the decision I've reached on this case but having reviewed all the information I am not upholding it.

My final decision

For the reasons given above, I do not uphold 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 1 August 2024.

Robert Walker
Ombudsman