DRN-2309058

The complaint

Mr B complains that Clydesdale Financial Services Limited trading as Barclays Partner Finance ("BPF") irresponsibly gave him a conditional sale agreement he couldn't afford.

Mr B is represented in this complaint by his relative, but for ease I'll refer to their representations as if made by Mr B himself.

What happened

In August 2018, Mr B acquired a used car through a conditional sale agreement provided by BPF. The cash price of the car was £20,296 and Mr B paid a £400 deposit, with the remainder being financed by BPF. The finance agreement was for 49 months with a total repayable of around £28,000. The monthly repayments were around £424 with a final optional payment (if Mr B wanted to keep the car) of £7,200.

Mr B quickly fell into arrears and eventually agreed to voluntary terminate the agreement. This left an outstanding balance of just under £12,000, which BPF are seeking repayment for.

Mr B says the agreement was unaffordable and BPF didn't do enough to check his ability to repay. He said the amount of income declared on the application form was wrong and BPF should have tried to verify this. He was also unhappy that the dealership gave him a further loan of £1,000 to cover some of the cost of his car insurance.

BPF said the application for the conditional sale agreement was 'auto approved' by their lending system based on the information Mr B had provided in his application and from the information BPF obtained from credit reference agencies. It said there was no requirement for it to verify Mr B's income and was satisfied that the agreement appeared affordable.

Our investigator didn't recommend the complaint be upheld. She said that she didn't think BPF carried out reasonable and proportionate checks. This was because BPF ought to have tried to understand Mr B's overall expenditure, not just his credit commitments. However, she thought that had BPF done this, it would still have likely concluded the lending was affordable.

Mr B didn't agree and asked for an ombudsman to review the complaint, so it has been passed to me 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.

In doing so, I've considered – amongst other things – the rules and guidance for lenders set out in the Consumer Credit Sourcebook ("CONC") within the Financial Conduct Authority's handbook.

I think there are two overarching questions I need to consider in order to decide what's fair and reasonable in all of the circumstances of this complaint. These questions are:

1. Did BPF complete reasonable and proportionate checks to satisfy itself that Mr B would be able to repay the borrowing in a sustainable way?
    a. If so, did it make a fair lending decision?
    b. If not, would reasonable and proportionate checks have shown that Mr B could sustainably repay the borrowing?
2. Did BPF act unfairly or unreasonably in some other way?

If I think Mr B has been disadvantaged in any way by BPF's actions, I'll go onto consider what I think is a fair way to put things right.

Did BPF complete reasonable and proportionate checks to satisfy itself that Mr B would be able to repay the borrowing in a sustainable way?

BPF were required to carry out a reasonable and proportionate assessment of Mr B's ability to sustainably repay the borrowing. This is often referred to as an 'affordability check'. This check had to be borrower-focussed. This means it needed to be concerned with whether Mr B could sustainably afford the borrowing (considering his specific circumstances), rather than how statistically likely he was to repay. The latter, is the risk posed to BPF as the lender, or its 'credit risk' but this is not necessarily the same as an assessment of affordability.

What's considered reasonable and proportionate will vary depending on a number of factors such as, but not limited to:

- The amount of credit;
- The total repayable and the size of the regular repayments;
- The duration of the agreement;
- The cost of the credit; and
- The consumer's individual circumstances.

What this means is that there isn't a one-size-fits-all approach to what is considered proportionate as any of these factors (or others) might influence what a reasonable and proportionate check ought to be.

I've considered that the total amount repayable on this agreement was quite large at just under £28,000. The monthly repayments were set at around £424 over 49 months. So, this was a relatively long term commitment and an expensive one. Ordinarily I would expect any borrower-focussed affordability check to have been quite thorough.

BPF says it asked Mr B about his annual income which it says he declared to be £28,750 (or around £1,900 per month). It said it also carried out a credit check and that Mr B told them he was living at home with his parents.

I've seen a copy of the credit check BPF carried out. It shows that Mr B didn't have any significant credit commitments. It was limited to a current account, a mobile phone contract and three unsecured personal loans with a combined total owed of just under £2,500 and combined monthly repayments of £119. All of these credit commitments were managed well with no adverse information recorded.

This left Mr B with a monthly disposable income of around £1,800 with which to cover the BPF finance payments, car insurance and running costs and any general living costs. Given

Mr B was living at home with his parents it's unlikely his general living costs would have been significant. There was also nothing to suggest Mr B's stated salary might be incorrect or inflated based on everything else recorded about his employment on the application form. On this basis and in the specific circumstances of this case, I don't think BPF have acted unreasonably in not verifying Mr B's income. I can't see any reason why BPF ought to have questioned what Mr B had stated on the application form.

I do however think that BPF ought to have done more to understand Mr B's expenditure. Outside of Mr B's credit commitments, BPF didn't know what other committed expenditure Mr B had. Although he lived at home with his parents it was possible he still had other regular commitments – such as rent, food or petrol – and I think it would have been reasonable and proportionate to have taken this into consideration too.

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

I don't know what questions or evidence BPF would have asked for if it had explored Mr B's other committed expenditure in more detail. We've asked Mr B to give us details of what his expenditure was at the time and I've reviewed his bank statements from the time of the borrowing to get an understanding of what his commitments were likely to be.

I'm not suggesting BPF should have requested bank statements from Mr B. There isn't anything that would lead me to think that was necessary in the circumstances of this case. But in the absence of anything else, the statements and what Mr B has told us I think give a good indication of what BPF would likely have found out about his expenditure if they'd asked about it.

Mr B says he didn't pay rent or contribute to any utility bills, nor can I see any of this type of expenditure on his account statements. It appears his mobile phone contract was around £50 per month and in addition to this and the credit commitments BPF found out about, Mr B's committed expenditure was limited to petrol which was around £160 per month.

I think had BPF asked Mr B about his expenditure at the time of the application I think it's likely this is what it would have found out. This means it would have shown to BPF that Mr B was left with around £1,600 in disposable income each month. I think this would have been more than sufficient to cover the costs of any insurance, car maintenance and other living costs such as food and clothing as well as the monthly repayments to BPF. For this reason, I don't think BPF have acted unfairly in lending to Mr B as I think reasonable and proportionate checks would have still likely shown it was affordable to Mr B.

It seems Mr B's monthly car insurance premium was exceptionally high at around £600 per month. But I don't think that would have been reasonably foreseeable to BPF and even if it was, it appeared he still had sufficient disposable income to comfortably meet that commitment too.

I recognise that the income recorded on Mr B's application wasn't a true representation of his income and it was actually significantly less. And given Mr B's true circumstances, this agreement was unaffordable to him. But BPF didn't know this and nor do I think they ought to have realised for the reasons I've already given. Now that BPF knows that Mr B is in financial difficulty it needs to ensure it continues to treat him fairly when seeking to recover the outstanding balance.

Did BPF act unfairly or unreasonably in some other way?

Mr B says that he didn't declare his salary as £28,750 during the application process. While I accept that's possible, I haven't been presented with anything persuasive to make me think it's more likely than not that he didn't. On that basis I don't think it would be reasonable for me to conclude that BPF has done anything wrong in relation to the application. And I haven't seen anything to make me think BPF acted unfairly or unreasonably in some other way.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 22 December 2020.

Tero Hiltunen
Ombudsman