

## The complaint

Mr T is unhappy with a hire purchase agreement he took with Oodle Financial Services Limited to get a car. He says Oodle didn't check the borrowing was affordable for him and it shouldn't have lent him the funds.

## What happened

In December 2018 Mr T went to a dealer to discuss changing his car. Mr T traded in his previous car for another used model and the dealer brokered finance with Oodle to cover the cost.

Oodle provided a hire purchase agreement funding the car's cost of £18,204.27 to Mr T. The regular monthly repayments were £417.18 per month over 60 months, with a total amount repayable of £25,130.80.

Mr T says shortly after getting the car it became apparent he couldn't afford the repayments. The direct debit for the first repayment in January 2019 was returned unpaid. Mr T quickly got into arrears on the account and he says got into debt with family members who had to make his repayments for him. In April 2019 it appears he asked Oodle about returning the car.

In November 2019 Mr T received a letter from his insurance company saying it couldn't find any insurer from its panel who would cover him in this car. Later in November 2019 Mr T complained to Oodle. He said at the time the lending was given, he was only earning £9 an hour and already had other bills and finance to pay. He said he was in negative equity on his previous car finance agreement and had bad credit. He said the agreement was never affordable for him from the beginning.

In December 2019 Oodle issued its final response. It said, in summary, that when Mr T took the borrowing he confirmed he worked full time and earned £24,000 a year. It said Mr T signed an agreement and confirmed the lending was affordable for him. And it said it completed relevant background checks. Oodle didn't uphold Mr T's complaint.

In December 2019 Mr T says he registered the car off the road (SORN) and hasn't driven it since.

Mr T remained unhappy with Oodle's response and brought the complaint to our service. He reiterated the lending was unaffordable for him. And he provided some invoices for repairs which he said he had to get family to pay for as he couldn't afford to maintain the car.

Our investigator upheld Mr T's complaint. She said, in summary, that Oodle didn't do enough checks to make sure the borrowing was affordable for Mr T before he took it. She said she'd reviewed Mr T's bank statements from around the time and concluded that if Oodle had done further checks these would've shown he couldn't afford the borrowing.

Our investigator said in order to put things right, Oodle should end the agreement, collect the car, and refund Mr T all the repayments, fees, interest and charges he's paid. She said

Oodle could retain £3,000 from this amount to reflect Mr T's usage of the car. And she said Oodle should remove any adverse information from Mr T's credit file.

Oodle responded and said it didn't agree. It said that it thought it had done enough checks to make sure Mr T could afford the lending and reiterated what checks it said it did. It also provided a form Mr T signed at the time.

Mr T responded and said he was happy with the investigator's opinion. But he also said he was concerned about the work he'd paid out for on the car and pointed out the invoices and receipts he'd provided.

The case was then passed to me to decide. I sent Mr T and Oodle a provisional decision on 16 March 2021. This explained that I was thinking of coming to the same outcome as our investigator, but I'd done so for slightly different reasons. And I was considering instructing Oodle to do something different to put things right. My findings from this decision were as follows:

*Mr T has complained about a hire purchase agreement. Providing consumer credit contracts like this is a regulated activity. So, I'm satisfied I can consider Mr T's complaint about Oodle.*

*When considering what's fair and reasonable, I take into account relevant law, regulations, rules and, where appropriate, what I consider having been good industry practice at the time. The Financial Conduct Authority ('FCA') sets out rules about checking lending is affordable for consumers in the Consumer Credit Sourcebook ('CONC') which, amongst other things, I will take account of.*

*Oodle should be well aware of the rules, regulations and good industry practice here for what checks it should've done to make sure the borrowing was affordable for Mr T. So, I don't need to go into full details here. There isn't a set list of checks Oodle needed to do at the time. But, in summary, CONC explains Oodle needed to do reasonable and proportionate checks to ensure Mr T could afford the repay the borrowing in a sustainable way.*

*So, what I need to consider in this case is whether Oodle did enough to check the borrowing was affordable for Mr T before it agreed to lend to him. If it didn't, I need to consider if Mr T has lost out because of this.*

*I've considered what checks Oodle did at the time. I won't go into details about the specific requirements Oodle said Mr T met, as this is quite technical, and these wouldn't be appropriate for me to list here. But, I do want to reassure Oodle that I've carefully considered all of the information it provided about its internal requirements. Oodle says, in summary, that it checked Mr T's details against its own income and lending criteria. It also says it did a credit check on Mr T and this met its internal requirements for the lending.*

*I've thought carefully about the checks Oodle did. Oodle says its 'affordability estimations' showed Mr T would have a disposable income of £408.33 a month after the loan repayment was taken into account. But, Oodle didn't verify Mr T's income. And it didn't verify, or even ask, what Mr T's outgoings at the time were.*

*Mr T provided his credit file to us. I can see at the point he took the borrowing he had some negative information on his file with several accounts with late repayments on.*

*I've considered that Mr T was borrowing a total of over £25,000, over five years with monthly repayments of over £400. I'm satisfied this represents a very significant financial*

commitment. And the repayments were higher than the borrowing Mr T had for his existing car finance.

I've also considered the particular car that Oodle financed. The car Mr T acquired was a high performance version of the model that was several years old. This meant its running costs were likely to be higher than an alternative car and considering Mr T's age at the time, also would've likely meant significantly higher insurance premiums than a lower powered car.

Considering all of this, I'm satisfied Oodle did not make reasonable and proportionate checks to make sure Mr T could afford the borrowing.

I've have considered what Mr T signed at the time. Oodle have provided a 'treating customers fairly review' document from the dealer. Part of this says

"Some of the key elements you should consider are:

Your affordability to your quotation (sic), taking into account other commitments you may have"

I've also considered that the terms and conditions for the agreement point out that Mr T should make sure the lending is affordable for him. But, it was Oodle's responsibility to make sure this was the case. I'm satisfied it didn't do this. So, these documents don't change my opinion.

Finally, there is some dispute here over what Mr T told the dealer at the time about his income. Oodle says it believes Mr T told the dealer that his income was £24,000 a year. Mr T says he didn't tell it this. I don't believe Mr T's income was at this level – as I'll come on to explain later. But, even if Mr T did say this, given the other circumstances and amount of lending, I'm still satisfied Oodle should've done further checks. So, either way, this doesn't change my opinion.

What I now need to consider is whether or not Mr T has lost out because Oodle didn't do enough checks to make sure the lending was affordable. In other words, I need to decide what I think it's likely would've happened if Oodle did do enough checks.

Examples of further checks Oodle could've done at the time would be things like verifying Mr T's income through wage slips. It also could've verified his expenditure, which it could've done by completing a detailed income and expenditure assessment or by checking his bank statements.

Mr T has provided three month's bank statements from around the time he took the lending. As above, this would be an example of the type of check I think Oodle should've done at the time - so I've reviewed these to see what his income and expenditure was.

In her view, our investigator said she thought after reviewing Mr T's bank statements that on average his income was £1,926 a month. But I don't agree with this figure. Our investigator included amounts Mr T received that were described as 'expenses' from his employer as part of his income. But, expenses would only cover Mr T's costs from his employer for work related expenses that he'd already paid out for. So, I don't think it's fair to consider this as income. Having reviewed Mr T's statements, I'm satisfied he had an average income of around £1,386.86 a month at the time he acquired the car.

I've considered the outgoings I can see on Mr T's bank statements. Mr T says he paid around £875 a month to his ex-partner for rent and bills. But, looking at the statements it doesn't appear this was the case. I can see Mr T paid an average of around £595 a month to

*what he says was an account with his ex-partner - which seems reasonable for the bills and rent he told us about.*

*Mr T was paying around another £102.28 on bills and other finance repayments directly from his bank account per month. I should point out that this doesn't include his previous car finance, which was settled as part of this agreement.*

*I've then considered what Mr T would be paying under the new finance agreement and for his new insurance costs. In total, I think all these outgoings, including the new loan, would total around £1,250.51 a month. This does leave Mr T some spare income. So, I've carefully considered if this means the lending was affordable.*

*Mr T would've been left with around £136.35 a month – or £31.46 a week. But, this would need to cover Mr T's other essential outgoings including food, petrol and clothing. And, I've considered that, as I previously explained, the car Mr T got was a used performance model. So, it's reasonable to assume Mr T would've also had some significant maintenance costs throughout the term of the agreement that he would also need to cover from this amount.*

*Considering all of this, I'm satisfied the borrowing was not affordable for Mr T when he acquired the car. So, I now need to consider what would be reasonable to put this right.*

*I think it's fair that Oodle cancel this agreement with nothing further to pay. I think it would be reasonable for Mr T to pay for the usage of the car he's had, as he's covered around 18,500 miles in it. But, I think everything else paid under the agreement, including any fees, interest and charges, should be reimbursed.*

*Our investigator said she thought £250 a month was a reasonable amount for Mr T to pay for the usage of the car. And I agree that this is fair. Mr T has shown his insurance company wouldn't cover him from 8 December 2019. He says he stopped using the car at this time and declared it off road. So, I don't think it's reasonable for him to pay for any usage since this time.*

*I've also considered the invoices for the work Mr T paid out for on the car. Mr T says he had to borrow funds from family to cover these costs. If Oodle hadn't lent to him then he wouldn't have incurred these expenses. And, given I'm recommending Oodle takes the car back, he won't benefit from any work done moving forward. So, I think it's reasonable that Oodle reimburse Mr T for these costs. I have noted one of the invoices contains a charge for an MOT, which Mr T would've had to pay out for on any car he might have acquired, or his previous car - so I don't think it's reasonable to reimburse him this amount.*

*Finally, Mr T wouldn't have had negative information on his credit file in relation to this borrowing if Oodle hadn't lent to him. So, it should remove this information from Mr T's credit file.*

I gave both parties one month to come back with any further information or evidence.

Mr T got in touch and said he agreed with what I'd said.

Oodle responded and said it had nothing further to add.

### **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 reconsidered all of the information about this case, I still think Mr T's complaint should be upheld.

I say this for the same reasons I explained in my provisional decision and set out above.

### **My final decision**

My final decision is that I uphold this complaint. I instruct Oodle Financial Services Limited to put things right by doing the following:

- Cancel the agreement with nothing further to pay
- Collect the car at a time and date suitable for Mr T at no cost
- Reimburse Mr T all repayments made towards the agreement along with any interest, fees or charges. Oodle can retain from this amount £250 a month prorated from when Mr T took the agreement to 8 December 2019\*
- Reimburse Mr T £210.71 from 17 January 2019\*
- Reimburse Mr T £48 from 22 January 2019\*
- Reimburse Mr T £1586.18 from 1 March 2019\*
- Reimburse Mr T £89.51 from 18 July 2019\*
- Reimburse Mr T £124.20 from 22 July 2019\*
- Reimburse Mr T £140.35 from 26 July 2019\*
- Reimburse Mr T £848.93 from 7 August 2019\*
- Reimburse Mr T £144.11 from 14 August 2019\*
- Remove any adverse information from Mr T's credit file about this account

\*These amounts should have 8% simple interest per annum added from the date of payment to the date of reimbursement. If Oodle is required by HM Revenue & Customs to remove income tax from this interest it should tell Mr T how much it has taken off. And it should provide Mr T a certificate to show this if he asks for one so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 18 May 2021.

John Bower  
**Ombudsman**