

The complaint

Mr N complains that Blue Motor Finance Ltd irresponsibly granted them a hire purchase agreement they couldn't afford to repay.

What happened

In January 2020, Mr N acquired a car financed by a hire purchase agreement from Blue Motor Finance. Mr N paid a £2,000 deposit and was required to make 60 monthly repayments of £515. The total repayable under the agreement was £32,917.

Mr N says that Blue Motor Finance didn't complete adequate affordability checks. He says if it had, it would have seen the agreement wasn't affordable. Blue Motor Finance didn't agree. It said that it carried out a thorough assessment which included gathering data from a credit reference agency for a creditworthiness check. It says it used the information gathered to look for signs of financial stress and affordability issues and that for Mr N no concerns were raised and so the proposal was accepted.

Our adjudicator recommended the complaint be upheld. She thought Blue Motor Finance ought to have realised the agreement wasn't affordable to Mr N.

Blue Motor Finance didn't agree and said the information provided didn't appear to be from Mr N's bank account (rather a credit card). It asked for further evidence showing the account Mr N made his payments from.

The case 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.

Blue Motor Finance will be familiar with all the rules, regulations and good industry practice we consider when looking at a complaint concerning unaffordable and irresponsible lending. So, I don't consider it necessary to set all of this out in this decision.

Blue Motor Finance hasn't provided a copy of the credit check it completed. I've therefore relied on the extracts from the credit report provided by Mr N. I think this gives a good indication of what Blue Motor Finance would likely have seen. In the month before the application, Mr N had taken out a loan for £7,000. This was additional to a loan taken out in November 2019 for £5,000. I think this ought to have raised concerns that Mr N might be struggling financially. It therefore would have been proportionate for Blue Motor Finance to have got a more thorough understanding of Mr N's financial circumstances before lending.

Blue Motor Finance didn't verify Mr N's income and expenditure before approving the finance. Given the overall size of the borrowing, the monthly repayments and the term of the agreement, as well as the information that I think should have been shown in the credit

check, I think it would have been proportionate for Blue Motor Finance to have done so to ensure the agreement was affordable.

I've reviewed three months of bank statements leading up to the lending decision. These show that Mr N's monthly income averaged around £2,600 however this varied from around £2,000 one month to almost £3,500 another month which I think needed to be taken into account to ensure Mr N had the money available each month through the term of the agreement.

Mr N has provided statements from two accounts. I note the comment made by Blue Motor Finance about the statements provided for one account and that regular payments can't be seen from either account. However, looking at the information provided the statements from the two different accounts support each other showing transfers between them and payments through direct debits and other forms of transactions. Therefore, I find it reasonable to rely on the information in these statements in this assessment.

The statements provided do not show many regular payments for living costs such as utilities, council tax and so on and Mr N has said these were paid by his wife. The statements do show the payments for other credit commitments which included payday loan payments as well as other commitments. Mr N made substantial payments to a payday lender in October 2019 and then further payments of £200 a month in November and December. Additional to this he was paying £265 for another loan. Additional to this are the two further loans Mr N took out in November and December 2019 which suggest he was paying a substantial amount of his income in credit commitment payments. The bank statements also show that Mr N was spending large amounts gambling. This, along with the increasing amount of debt Mr N was taking on, raises concerns about the sustainability of any further lending. As I think this would have been identified had proportionate verification taken place, I don't think that Blue Motor Finance acted fairly by approving the finance.

Putting things right

As I don't think Blue Motor Finance ought to have approved the lending, it should therefore refund all the payments Mr N has made, including any deposit. However, Mr N has had use of the car for around 27 months, so I think it's fair he pays for that use. I note Mr N's comments about not being able to afford to use the car more recently but as the car was available for his use I think it reasonable he pays for this. But I'm not persuaded that monthly repayments of £515 a month are a fair reflection of what fair usage would be. This is because a proportion of those repayments went towards repaying interest.

There isn't an exact formula for working out what a fair usage should be. In deciding what's fair and reasonable I've thought about the amount of interest charged on the agreement, Mr N's likely overall usage of the car and what his costs to stay mobile would likely have been if he didn't have the car. In doing so, I think a fair amount Mr N should pay is £250 for each month he had use of the car. This means Blue Motor Finance can only ask him to repay a total of £6,750. Anything Mr N has paid in excess of this amount should be treated as an overpayment.

To settle Mr N's complaint Blue Motor Finance should do the following:

- End the agreement and collect the car with nothing further to pay.
- Refund all the payments Mr N has made (including the deposit), less £6,750 for fair usage.
 - If Mr N has paid more than the fair usage figure, Blue Motor Finance should refund any overpayments, adding 8% simple interest per year* from the date of each overpayment to the date of settlement. Or;

- If Mr N has paid less than the fair usage figure, Blue Motor Finance should arrange an affordable and sustainable repayment plan for the outstanding balance.
- Once Blue Motor Finance has received the fair usage amount, it should remove any adverse information recorded on Mr N's credit file regarding the agreement.

*HM Revenue & Customs requires Blue Motor Finance to take off tax from this interest. Blue Motor Finance must give Mr N a certificate showing how much tax it's taken off if Mr N asks for one.

My final decision

I uphold this complaint and direct Blue Motor Finance Ltd to put things right in the manner set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 3 June 2022.

Jane Archer
Ombudsman