

## **The complaint**

Mr A complains that Specialist Motor Finance Limited ("SMF") irresponsibly granted him a loan he couldn't afford to repay.

## **What happened**

In February 2019, Mr A acquired a car and financed the deal through a hire purchase agreement with SMF. Mr A was required to make 59 monthly repayments of £356.99, with a final payment of £366.99 after which he would own the car. The total repayable under the agreement was £22,929.40 towards which Mr A paid a deposit of £1,500.

Mr A says that SMF didn't complete adequate affordability checks. He says if it had, it would have seen the agreement wasn't affordable. SMF didn't agree. It said that it carried out a thorough assessment which included a review of Mr A's credit commitments from his credit file, asking Mr A for his income and using statistical methods to estimate his likely expenditure.

Our investigator recommended the complaint be upheld. She thought SMF ought to have realised the agreement wasn't affordable for Mr A.

SMF didn't agree and said it wouldn't have noticed most of the additional loans the investigator identified in Mr A's bank statements and that it had overestimated Mr A's outgoings, assuming he was responsible for all the household bills when it was evident he was one of several people living at the same house who would have shared costs.

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.

SMF 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.

The credit file SMF reviewed showed that three of Mr A's four credit cards were already at their credit limit. Mr A's bank account was also at its overdraft limit and whilst he'd explained to them that he was a homeowner it was apparent from the credit file that there were no mortgage payments being made. This was a large credit commitment over an extended period of time, and I think these issues should have led SMF to look deeper and to have gathered more information to establish if the loan was affordable for Mr A. I don't therefore think the checks they completed were proportionate.

I think it would have been proportionate for SMF to have found out more about Mr A's committed expenditure, such as his living costs. I can't be sure exactly what SMF would have found out if it had asked. In the absence of anything else, I think it would be reasonable

to place significant weight on the information contained in Mr A's bank statements as to what would most likely have been disclosed.

I've reviewed three months of bank statements leading up to the lending decision. The statements show that Mr A was struggling financially. In that time, he had taken out additional loans for over £8,100 when his earnings in that period were only about £4,800. The statements also showed transfers to other accounts which I think would fairly have warranted further investigation from SMF given the additional debt Mr A had been taking on. Those accounts showed that Mr A had been gambling quite heavily and would have added to the picture that Mr A wasn't in control of his finances at the time of application and was struggling. Mr A wasn't in a position to afford the repayments towards the new agreement without financial difficulty or having to borrow further. Had SMF completed proportionate checks, I think it's likely it would have discovered this too. It therefore didn't act fairly by approving the finance.

### **Putting things right**

As I don't think SMF ought to have approved the lending, I don't think it's fair for it to be able to charge any interest or charges under the agreement. Mr A should therefore only have to pay the original cash price of the car, being £13,700. Mr A has nearly paid that much. At the time our investigator provided her view she estimated there was a shortfall of £607.95 before the cash price was paid. So, I think SMF should agree an affordable repayment plan for any shortfall and they should also remove any adverse reports they've made to Mr A's credit file in relation to this agreement.

If Mr A has now paid more than the cash price of the car SMF should refund any excess and add 8% simple interest per year to that refund from the date of payment to the date of settlement.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 1 July 2022.

Phillip McMahon  
**Ombudsman**