

## **The complaint**

Mr A complains that Clydesdale Financial Services Limited trading as Barclays Partner Finance (BPF) irresponsibly granted him a conditional sale agreement he couldn't afford to repay.

## **What happened**

In July 2015, Mr A acquired a used car financed by a conditional sale agreement from BPF. Mr A paid a deposit of £100 and was required to make 48 monthly repayments of around £286, with a final optional payment of £6,150 if he wanted to own the car at the end of the agreement. The total repayable under the agreement was just under £20,000.

Mr A says that BPF didn't complete adequate affordability checks. He says if it had, it would have seen the agreement wasn't affordable. BPF didn't agree. It said that it carried out a thorough assessment which included gathering details about Mr A's employment and income and carrying out a credit check.

Mr A also says he was misled as he was told at the time of entering the agreement that he could hand back the car at any time but when he experienced difficulties making his repayments he wasn't allowed to do this.

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

BPF didn't agree. It reviewed the bank statements relied on in our investigator's view and didn't think these gave a complete picture of Mr A's finances as his wages weren't shown. It said its underwriters calculated Mr A's monthly income to be £1,164 and given he had minimal monthly expenditure the repayments appeared affordable. It said Mr A's credit file had no adverse data and he didn't have outstanding credit commitments. BPF said that Mr A had paid £4,489.85 to it before the account was transferred to third party.

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.

BPF 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.

BPF carried out a credit check and said this didn't raise concerns. I have looked at the results of the credit check that BPF provided. These show very little data – which is unsurprising given Mr A's age at the time (18). So, while I accept this report didn't show adverse data it also didn't show any positive signs as to how Mr A had been managing credit. Due to the lack of information contained I do not think it was reasonable to place

much weight on this report and I think it would have been reasonable to carry out further checks to ensure the lending was affordable.

BPF recorded Mr A as having an annual income of £16,000 which gave a monthly income of £1,164. Given the size of the repayments compared to Mr A's income and noting the term of the agreement, I think it would have been reasonable for his income to have been verified. I note the comments BPF has made about Mr A having minimal expenditure, but I think it would have been proportionate to ask Mr A about his committed living expenses. Without confirmation of Mr A's earnings and understanding what his regular committed expenditure was BPF wouldn't have got a reasonable understanding of whether the agreement was affordable or not. It therefore didn't complete proportionate checks.

While BPF recorded Mr A's annual income as £16,000, Mr A says he didn't provide this information and that he was earning around £200 a week in cash at the time of the agreement. I accept that verifying his income may have been difficult. However, given the details that have been provided about Mr A's income and noting the size and term of the agreement I think it was particularly important for some form of verification of income to take place.

I also think it would have been proportionate for BPF to have found out more about Mr A's committed expenditure, such as his living costs. I can't be sure exactly what BPF 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.

We have asked for copies of Mr A's payslips or other evidence of his wages at the time. Mr A has explained that he was paid in cash and that he didn't receive any payslips. I've reviewed three months of bank statements leading up to the lending decision.

The statements do not show that Mr A was being paid a regular salary into his account. I note BPF's comments about Mr A possibly having another account, but he has confirmed he only had the one bank account at the time (for which statements have been provided). Mr A's accounts show cash deposits into his account which he says was from his wages. These amounts vary substantially but give an average of less than £500 a month. While I accept that he may not have paid all his earnings into his account, the cash deposited shows a low level of income. Mr A also received frequent transfers from his parents which were to cover his living expenses.

I note BPF's comments about Mr A not paying rent or other household costs and I agree there is no evidence he was making these payments. However, in the two months leading up to the agreement Mr A paid an average of around £480 for insurance. He received a refund in early July and then paid a further £460 in July. Additional to this he was making payments to the DVLA as well as paying for fuel and food. While I accept Mr A's costs for items such as fuel and food may have been covered by his parents I find it reasonable to accept that he had other committed costs associated with having a car such as insurance and DVLA charges which he was required to make. Considering Mr A's limited income this demonstrates that Mr A didn't have enough disposable income to afford the additional borrowing. BPF therefore didn't act fairly by approving the finance.

Overall, I do not think that had adequate checks been carried out, BPF would have found that this agreement was affordable for Mr A.

## **Putting things right**

As I don't think BPF ought to have approved the lending, it should therefore refund all the payments Mr A has made, including any deposit. However, Mr A did have use of the car for around 22 months, so I think it's fair he pays for that use. But I'm not persuaded that monthly repayments of around £286 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 A'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 A should pay is £210 for each month he had use of the car. This means BPF can only ask him to repay a total of £4,620. Anything Mr A has paid in excess of this amount should be treated as an overpayment.

As BPF has sold the debt to a third party, it should arrange to either buy back the debt from the third party or liaise with them to ensure the redress set out below is carried out promptly.

To settle Mr A's complaint BPF should do the following:

- Refund all the payments Mr A has made, less £4,620 for fair usage.
  - If Mr A has paid more than the fair usage figure, BPF should refund any overpayments, adding 8% simple interest per year\* from the date of each overpayment to the date of settlement. Or;
  - If Mr A has paid less than the fair usage figure, BPF should arrange an affordable and sustainable repayment plan for the outstanding balance.
- Once BPF has received the fair usage amount, it should remove any adverse information recorded on Mr A's credit file regarding the agreement.

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

## **My final decision**

I uphold this complaint and direct Clydesdale Financial Services Limited trading as Barclays Partner Finance 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 23 September 2022.

Jane Archer  
**Ombudsman**