

The complaint

Mr P complains that Secure Trust Bank Plc trading as Moneyway irresponsibly granted him a hire purchase agreement he couldn't afford to repay.

What happened

In August 2021, Mr P acquired a used car financed by a hire purchase agreement from Moneyway. Mr P was required to make 59 monthly repayments of around £472 and a final payment of around £482. The total repayable under the agreement was around £28,314.

Mr P says that Moneyway didn't complete adequate affordability checks. He says if it had, it would have seen the agreement wasn't affordable. Moneyway didn't agree. It said that it carried out a thorough assessment which included asking Mr P about his income and residential status and checking his credit commitments. It said based on Mr P's income and estimated expenses, the agreement was affordable.

Our adjudicator didn't recommend the complaint be upheld. She thought Moneyway didn't act unfairly or unreasonably by approving the finance agreement.

Mr P didn't agree and said the agreement was unaffordable as his expenses were higher than Moneyway assessed.

My provisional conclusions

I issued a provisional decision on this complaint. I concluded in summary:

- Given the overall size of the borrowing, the monthly repayments and the term of the agreement, I thought it would have been proportionate for Moneyway to have verified Mr P's income and asked him about this expenditure to ensure it had a clear understanding of his regular living expenses.
- Mr P provided copies of his payslips for the weeks leading up to the agreement. Based on these, Mr P's weekly income varied but on average it was around £1,500 a month. The repayments therefore accounted for a substantial amount of his income.
- Moneyway estimated Mr P's expenses but I thought it would have been reasonable to have asked Mr P about his expenses to get a clear understanding of his specific circumstances. Mr P provided information about his expenses at the time, these included credit commitments, insurance and rent. Moneyway recorded credit commitments of £389. Mr P's credit report confirmed this. Mr P's credit file recorded further credit commitments including a communications provider, insurance and a credit card. Adding in the costs Mr P provided for these items (as well as his rent) gave total monthly outgoings of around £1,150. This amount didn't include any payments Mr P would need to make towards the running cost of the car (further insurance, fuel and maintenance) or any payments for food or other living costs. Mr P's monthly income was around £1,500 so I did not find that the repayments of around £472 required under this agreement were affordable.

Mr P accepted my provisional decision. Moneyway didn't provide any further information in response to my provisional 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.

Moneyway 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. Information about our approach to these complaints is set out on our website.

Before granting the finance, Moneyway asked Mr P about his income and estimated his expenditure based on the information he provided that he was single and living with parents and his credit file commitments. But, as I said in my provisional decision, given the overall size of the borrowing, the monthly repayments and the term of the agreement, I think it would have been proportionate for Moneyway to have verified Mr P's income and asked him about this expenditure to ensure it had a clear understanding of his regular living expenses. Therefore, I don't think that Moneyway completed proportionate checks.

Had Moneyway completed reasonable and proportionate affordability checks, I think it would have found that the agreement wasn't affordable for Mr P. As I set out in my provisional decision, Mr P's average monthly income was around £1,500 and his expenses around £1,050 (excluding the running costs of the car, food and other living expenses). As the repayments under the agreement were around £472, I think further checks would have shown agreement wasn't affordable for Mr P.

Putting things right

As I don't think Moneyway ought to have approved the lending, it should therefore refund all the payments Mr P has made, including any deposit. However, Mr P did have use of the car for around four months, so I think it's fair he pays for that use. But I'm not persuaded that monthly repayments of around £472 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 P'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 P should pay is £270 for each month he had use of the car. This means Moneyway can only ask him to repay a total of £1,080. Anything Mr P has paid in excess of this amount should be treated as an overpayment.

To settle Mr P's complaint Moneyway should do the following:

- End the agreement with nothing further to pay.
- Refund all the payments Mr P has made, less £1,080 for fair usage.
 - If Mr P has paid more than the fair usage figure, Moneyway should refund any overpayments, adding 8% simple interest per year* from the date of each overpayment to the date of settlement. Or;

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

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

My final decision

My final decision is that I uphold this complaint. Secure Trust Bank Plc trading as Moneyway should take the actions set out above in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 30 November 2022.

Jane Archer
Ombudsman