

The complaint

Mr Y believes Blue Motor Finance Ltd ('BMF') acted irresponsibly by agreeing a hire purchase agreement he'd applied for.

What happened

On 20 February 2018, Mr Y was supplied with a used car through a hire purchase agreement with BMF. He paid a deposit of £350 and the agreement was for £5,790 over 61 months, with 60 monthly repayments of £147.16 and a final payment of £297.16.

Mr Y has complained that BMF didn't act responsibly when approving the finance. He's said that BMF's checks were inadequate as he was continually overdrawn, he had significant reliance upon short-term high-interest loans (also referred to as payday loans), and he had a gambling problem, at the time the finance was approved. So, he didn't think the payments were affordable.

BMF considered this complaint, but they thought they'd done adequate checks, which showed that Mr Y could afford the payments. And they didn't uphold his complaint.

Mr Y wasn't happy with this, so he brought his complaint to us for investigation.

Our investigator said that BMF hadn't been able to evidence the checks they'd done. So, he considered what the checks would likely have shown. He considered the information Mr Y had provided and thought these showed Mr Y had sufficient disposable income to sustainably support the payments to BMF.

The investigator said the evidence showed that, while Mr Y had been reliant upon payday loans in the past, this was no longer the case when he made his application to BMF. He also said that, while Mr Y's bank statements did show gambling transactions, BMF would only have been aware of this if they had seen evidence that wasn't reasonably required for them to make a fair lending decision. Given this, the investigator thought BMF hadn't done anything wrong when they approved the finance Mr Y applied for.

Mr Y didn't agree with the investigator. He said that his financial situation at the time, and shortly after, the finance was agreed should have shown that he was unable to control his debts. He's also said that this wasn't helped by his "*serious gambling addiction*" and he was struggling to live day to day. So, he's asked for an ombudsman to make 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.

When someone complains about irresponsible and/or unaffordable lending, there are two overarching questions I need to consider in order to decide what's fair and reasonable in all of the circumstances of the complaint. These are:

1. Did BMF complete reasonable and proportionate checks to satisfy itself that Mr Y would be able to repay the credit in a sustainable way?
 - a. if so, did BMF make a fair lending decision?
 - b. if not, would reasonable and proportionate checks have shown that Mr Y could sustainably repay the borrowing?
2. Did BMF act unfairly or unreasonably in some other way?

And, if I determine that BMF didn't act fairly and reasonably when considering Mr Y's application, I'll also consider what I think is a fair way to put things right.

Did BMF complete reasonable and proportionate checks to satisfy itself that Mr Y would be able to repay the credit in a sustainable way?

There's no set list for what reasonable and proportionate checks are, but I'd expect lenders to consider things such as the amount, duration, and payments of the finance being applied for; as well as the borrowers' personal circumstances at the time of each application.

BMF have explained that they checked Mr Y's credit file and applied a series of calculations that looked for signs of financial stress and affordability. They've said these included looking at the amount of active credit accounts Mr Y had, how he was using his credit facilities, and what his debt to income ratio was.

However, BMF haven't provided anything to evidence the checks they actually carried out. As such, I can't be satisfied that these checks were reasonable and proportionate. Therefore, I've gone on to consider what BMF would likely have found had reasonable and proportionate checks been carried out.

Would reasonable and proportionate checks have shown that Mr Y would be able to repay the credit in a sustainable way?

Before I address the matter in hand, I've seen that the Financial Ombudsman Service has also considered similar complaints from Mr Y about credit that had been afforded to him by other lenders between 2008 and 2017.

The investigators looking at those transactions thought that other credit providers had been irresponsible to lend to Mr Y at this time because of his financial circumstances, his reliance upon payday loans, and payments to a debt management company.

However, these outcomes were based on Mr Y's circumstances at the time. And I need to consider if these circumstances were still relevant in February 2018. As such, I don't consider that the outcomes of these investigations automatically mean that BMF must have acted irresponsibly by approving the finance Mr Y applied for. And my decision will be based on what reasonable and proportionate checks would've shown in February 2018.

Mr Y has provided a copy of a multi-agency credit report. This shows historic data so I'm satisfied this will give a good indication of what BMF would've seen on the credit file they obtained when they considered his finance application.

This report shows that, in January 2018, Mr Y had three active mail order accounts, five active credit cards, and one active loan. All the payments had been made on all these accounts and there were no arrears. Additionally, there were no missed payments showing on any settled loans or credit cards, including payday loans. The report shows that Mr Y's current accounts were all conducted within any agreed overdraft limit, and he was maintaining payments to his mobile phone providers.

However, the report does show some historic arrears – a payment arrangement from March to June 2015 on an active mail order account, a missed payment in June 2014 to a mobile phone provider that was repaid between July and November 2014, and a settled mail order account that was in debt management in March and April 2015.

In respect of payday loans, the report shows that Mr Y was using these regularly in 2015 and 2016, with a few being utilised in 2017. The last payday loan showing on the report was repaid in October 2017.

Based on this report, while it's clear that Mr Y had credit when he applied for finance with BMF, he was maintaining all payments and there were no indications of any financial difficulties. Mr Y was likely in some historic financial difficulties between 2014 and 2016, given the missed payments and reliance upon payday loans at this time. However, there's nothing on this report that shows me BMF should've declined his application, or that they should've been unduly concerned about his current financial position.

Mr Y has also provided copies of his bank statements for one account for the period June 2007 to December 2018. While this gives a comprehensive insight into his financial position for more than a decade, I wouldn't have expected BMF to have asked Mr Y for copies of these. However, I'm satisfied that the statements for November 2017 to January 2018 would give a good indication of what BMF would likely have taken into consideration had they asked Mr Y to prove his income and committed expenditure during that specific period.

The bank statements show that Mr Y received an income of £2,526 a month. While they also show that he overpaid his credit cards on a regular basis, his committed expenditure (i.e. the minimum payments) for the active credit showing on the credit report was £565.

Given this, had BMF verified Mr Y's income, for example by way of payslips, and taken into consideration the information showing on the credit report, then they would've calculated Mr Y to have £1,961 disposable income each month. And, while that would need to cover any housing costs, household bills, food etc. (none of which show on the statements Mr Y had provided), reasonable and proportionate checks would show that Mr Y was still able to sustainably repay a payment of £147.16 a month.

When looking at the bank statements in depth, I can see that Mr Y was transferring a lot of money into and out of the account monthly. This indicates additional bank accounts that, while they would likely show the missing household payments referred to above, may also have shown additional income and/or expenditure. So, the statements provided don't show a full picture of Mr Y's financial circumstances at the time.

The statements I've reviewed also show that Mr Y had payday loans that weren't showing on his credit file. While not all lenders will provide details to the credit reference agencies, I can only expect BMF to have taken into consideration credit commitments they were made aware of. And, as these payday loans weren't showing on the credit file, and as I've seen nothing to show me that Mr Y declared them to BMF, it wouldn't be fair to say BMF should've taken into consideration credit commitments they couldn't have been reasonably aware of.

Finally, the bank statements show that Mr Y was gambling excessively – as he’s now said was the case. However, as I’ve said above, I consider that validating Mr Y’s income, when taking into consideration the contents of the credit file, Mr Y’s committed expenditure, and the payments to BMF, was a reasonable and proportionate check. As such, I wouldn’t expect BMF to have obtained bank statements. So, they would only have been aware of Mr Y’s gambling problem if he made them aware of this. And I haven’t seen that he did so as part of the application process.

As such, and while I appreciate this will come as a disappointment to Mr Y, I’m satisfied that, had BMF carried out reasonable and proportionate checks, then there’s no valid reason why they wouldn’t have found the finance to be sustainably affordable. And it’s for this reason why I won’t be asking them to refund all or part of the payments Mr Y paid, or of any interest and fees he may have been charged.

Did BMF act unfairly or unreasonably in some other way?

I haven’t seen anything to make me think BMF acted unfairly or unreasonably in some other way.

My final decision

For the reasons explained above I don’t uphold Mr Y’s complaint about Blue Motor Finance Ltd.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr Y to accept or reject my decision before 18 May 2023.

Andrew Burford
Ombudsman