

## **The complaint**

Mr B complains Specialist Motor Finance Limited (SMFL) irresponsibly approved a hire purchase agreement which he couldn't afford.

## **What happened**

Mr B took out a hire purchase agreement with SMFL on 11 April 2019. The cash value was £7,000 and the total amount repayable was £10,670.32. The monthly repayments were £222.09, and the duration of the agreement was 48 months with an option to purchase fee of £10. The APR was 24.9%. Neither party have provided our service with a copy of the agreement, but they have confirmed the terms, and this hasn't been disputed.

Mr B is represented in his complaint. The representative contacted SMFL to complain on 31 October 2022. The representatives said SMFL should not have entered into the agreement. They said Mr B had four late or missed payments in the three-month period leading up to the lending decision. They also said Mr B had to take out further borrowing which showed his dependency on credit. They said SMFL had failed to conduct thorough, appropriate, and reasonable checks, specific to Mr B's application.

SMFL responded to the complaint on 3 January 2023. It said Mr B told it he earned £2,500 per month, was 28 years old, single and living at home. It also said it reviewed Mr B's credit history which included eight active credit items, six defaults more than 18 months before the application and seven settled credit items. It obtained information from a credit reference agency to estimate Mr B's cost of living and established the lending was affordable. It concluded the checks had been adequate and the loan affordable at the time.

Mr B remained unhappy and asked our service to investigate. Our Investigator felt the checks were not proportionate and said SMFL should have done more to establish Mr B's financial circumstances leading up to the lending decision. Our Investigator said SMFL should have done more to verify Mr B's income and expenditure. However, our investigator felt even if SMFL's checks had been proportionate, it would have found the agreement was affordable and repayments sustainable.

Mr B didn't agree with our Investigator's view. Mr B said his basic wage after tax was around £1,600 to £1,700 per month. He said he had to double the number of hours he worked to reach his income. He also said he had a severe gambling problem for years and this is something they might have considered had they seen his bank statements. Therefore, the complaint has been passed to me to decide.

## **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.

We explain how we handle complaints about irresponsible and unaffordable lending on our website. I've used this approach to help me decide Mr B's complaint. SMFL needed to

ensure that it didn't lend irresponsibly as set out in the FCA's Consumer Credit Sourcebook (CONC). In practice, what this means is that SMFL needed to carry out proportionate checks to be able to understand whether any lending was affordable for Mr B before providing it.

In this case, there are two overarching questions that I need to answer to fairly and reasonably decide Mr B's complaint. These two questions are:

1. Did SMFL complete reasonable and proportionate checks to satisfy itself that Mr B would be able to repay the agreement in a sustainable way?
  - If so, did it make a fair lending decision?
  - If not, would those checks have shown Mr B would've been able to do so?
2. Did SMFL act unfairly or unreasonably in some other way?

*Did SMFL complete reasonable and proportionate checks to satisfy itself that Mr B would be able to repay the agreement in a sustainable way?*

SMFL have told us Mr B confirmed he was single, 28 and living with parents when applying for the credit. Mr B also said he had an income of £2,500 a month. It said it verified Mr B's income through a credit reference agency which assessed affordability. It took into account Mr B's estimated cost of living and rent, as well as Mr B's credit commitments. And it estimated Mr B had disposable income of around £1,800. This information confirmed Mr B's income had not been overstated and the application was auto accepted on the basis it was affordable.

I've reviewed the credit history obtained by SMFL. I can see it showed Mr B had six defaulted accounts and the total default balance was around £2,000. The most recent default to the lending decision was recorded in November 2017. It also showed Mr B had eight active accounts and seven settled credit accounts. It recorded his monthly credit commitments as being £394.60.

Having considered this, I think the information SMFL had about the defaulted accounts should have prompted SMFL to carry out more checks to verify Mr B's income and expenditure, so it had a clearer picture of his financial circumstances at the time. I don't think it was reasonable to rely on the information obtained from the credit reference agency and SMFL should have done more to understand Mr B's specific circumstances.

*Would reasonable and proportionate checks have shown that Mr B would be able to repay the agreement without the repayments having a significant adverse impact on his financial situation?*

As I don't think reasonable and proportionate checks were carried out, I've thought about what such checks were likely to have shown and whether SMFL was likely to still have agreed to lend to Mr B. I think these checks should have included verifying Mr B's income and expenditure.

I've carefully considered Mr B's bank statements which cover the three-month period leading up to the lending decision. I'm not saying SMFL had to gather bank statements. However, I think they're likely to provide relevant insight into Mr B's financial circumstances at the time.

In response to the view, Mr B said his income was less than identified because he carried out overtime. He has provided a copy of his payslip which confirmed his basic pay was around £1,975. However, I can also see from his payslip from January 2019 he had received

a cumulative total of around £31,377 for what seems to be a ten-month period as stated on the payslip. So, SMFL could have reasonably concluded Mr B consistently carried out overtime and could expect to receive more than the basic pay.

Having reviewed Mr B's income for the period leading up to the lending decision, I can see he received on average around £2,500 a month. This is in line with what he had declared to SMFL. On this basis, I think it's likely this is what SMFL would have found had it carried out proportionate checks and it's reasonable for them to rely on the income including overtime because the evidence showed he had received over and above the basic pay.

There are also a number of committed expenses including to the DVLA. There also appears to be a regular payment to family which seems to cover living expenses as he told SMFL he was living at home at the time of taking out the agreement. He also had other regular commitments including a payment towards a debt charity for around £262 and payment towards a loan for £128.82. He also made contributions to reducing his credit card balance and had some overdraft charges. I note his account would be brought back out of his overdraft when he received his salary. Having considered all of this, Mr B's committed expenditure seems to have been around £1,000. As he had a monthly income of £2,500, I'm satisfied it seems he would have had sufficient remaining funds to meet the monthly repayments of £222.09 under the hire purchase agreement.

I've also thought about what Mr B's credit file shows. I can see Mr B took out some payday lending agreements in 2018 and 2017. SMFL have said Mr B had six defaulted accounts all occurring more than 18 months before the start of the agreement. I can see his recent credit report shows the balance of four of these defaulted accounts with a total balance of around £2,000. The most recent defaulted account seems to be from November 2017. I can also see he entered an arrangement to pay in April 2017 which was settled in September 2017. I appreciate this does demonstrate Mr B had some difficulty meeting his financial commitments at this time. But sometime had passed before he entered into the agreement with SMFL, so I've also thought about his credit history in the period closer to entering the agreement.

Mr B had eight active credit accounts at the time of the agreement. I can see he did have an arrangement to pay but seems to have been paying this each month without issue. In addition to this, he had three late/missed payments in the 18 months leading up to the agreement. However, I'm satisfied the information shows Mr B's finances were being managed reasonably well and he was meeting the repayments. Having considered Mr B's income and expenditure, I'm satisfied it seems he had sufficient means of meeting his financial commitments and making the monthly repayments under this hire purchase agreement.

In response to the view, Mr B has said he had to borrow money from friends and family to support him, and he has a gambling addiction. I have asked Mr B for some more information to understand the circumstances and whether it's something SMFL would likely to have become aware of through proportionate checks.

I've considered the incoming and outgoing payments as shown on Mr B's statements. But the statements I've seen don't evidence the difficulties Mr B was having here. He has explained the gambling transactions wouldn't show on his account because he was part of the self-exclusion scheme, but he was transferring money to his brother in order to gamble.

Mr B has provided his brother's bank statement from April 2019 to demonstrate this. However, I don't think this is something SMFL were likely to obtain if it had carried out reasonable and proportionate checks and I don't think the information they did have would

have alerted it to the problems here. Overall, the evidence I've seen doesn't persuade me SMFL would have otherwise been informed even if it had carried out proportionate checks.

However, I can see he received a large payment from his brother and Mr B has explained this was a loan. He was to repay £250 a month. I've factored this into the disposable income I've identified, and I'm satisfied Mr B had sufficient funds to cover this, his credit commitments, cost of living payments and the monthly repayments under the hire purchase agreement.

Therefore, I'm satisfied had SMFL carried out reasonable and proportionate checks its likely it would have found the agreement was affordable. Whilst the credit file does show Mr B had some previous difficulty meeting financial commitments, the information leading up to the agreement showed he was managing things fairly. Additionally, his income seems to have been sufficient to meet his active financial and credit commitments, with sufficient remaining for the monthly repayment of £222.09.

I appreciate there were other circumstances which impacted Mr B and I know my decision will be disappointing. But based on the evidence I can't conclude its likely SMFL would have become aware of such circumstances had it completed proportionate and reasonable checks. This is because it seems such checks would have shown the agreement was affordable. Therefore, I won't be asking SMFL to do anything to resolve the complaint.

*Did SMFL act unfairly or unreasonably in some other way?*

Having considered the evidence, I've no reason to conclude SMFL acted unfairly or unreasonably in some other way. Therefore, I can't say they should have done something differently.

**My final decision**

For the reasons outlined above, I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 15 November 2023.

Laura Dean  
**Ombudsman**