

Complaint

Mr D complains that Blue Motor Finance Ltd (“BMF”) unfairly entered into a hire-purchase agreement with him. He’s said that the agreement was unaffordable.

Background

In April 2019, BMF provided Mr D with finance for a used car. The cash price of the vehicle was £10,595.00. Mr D paid a deposit of £1,400.00 and entered into a 61-month hire-purchase agreement with BMF for the remaining amount to be paid.

The amount lent was £9,195.00. The agreement had interest, fees and total charges of £7,090.35 (made up of interest of £6,666.00, a credit acceptance fee (a) of £264.35, a credit acceptance fee (b) of £150 and an option to purchase fee of £10). The total amount to be repaid of £16,285.35 (not including Mr D’s deposit) was due to be repaid by 60 monthly instalments of £264.35 followed by a final monthly instalment of £424.35.

In May 2023, Mr D complained to BMF saying that the agreement was unaffordable and so should never have been provided to him. BMF didn’t uphold the complaint. It said that its checks confirmed that the finance was affordable and so it was reasonable to lend.

Mr D’s complaint was considered by one of our investigators. She didn’t think that BMF had done anything wrong or treated Mr D unfairly. So she didn’t recommend that Mr D’s complaint should be upheld.

Mr D disagreed with our investigator’s assessment and the complaint was passed to an ombudsman for a final decision.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

We’ve explained how we handle complaints about irresponsible and unaffordable lending on our website. And I’ve used this approach to help me decide Mr D’s complaint.

Having carefully thought about everything I’ve been provided with, I’m not upholding Mr D’s complaint. I’d like to explain why in a little more detail.

BMF needed to make sure that it didn’t lend irresponsibly. In practice, what this means is that BMF needed to carry out proportionate checks to be able to understand whether any lending was sustainable for Mr D before providing it.

Our website sets out what we typically think about when deciding whether a lender’s checks were proportionate. Generally, we think it’s reasonable for a lender’s checks to be less thorough – in terms of how much information it gathers and what it does to verify that information – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low, the amount lent was high, or the information the lender had – such as a significantly impaired credit history – suggested the lender needed to know more about a prospective borrower's ability to repay.

BMF says it agreed to this application after Mr D provided details of his monthly income and confirmed that he was living at home with parents. It says it also carried out credit searches on Mr D which showed four active accounts and there were no other indicators of financial stress present. In BMF's view, when payments to the amount Mr D already owed, plus a reasonable amount for Mr D's living expenses, were deducted from his monthly income the monthly payments were affordable.

On the other hand, Mr D says that these payments were unaffordable and there was no way he was going to be able to maintain them.

I've thought about what Mr D and BMF have said.

The first thing for me to say is that I don't think it was reasonable to rely on an estimate of Mr D's living costs given his existing indebtedness as well as the cost of credit and the term of the agreement. In these circumstances, I don't think that BMF's checks did go far enough.

As BMF didn't carry out sufficient checks, I've gone on to decide what I think BMF is more likely than not to have seen had it obtained further information from Mr D. Bearing in mind, the length of time of the agreement and the amount of the monthly payment, I would have expected BMF to have had a reasonable understanding about Mr D's regular living expenses as well as his income and existing credit commitments.

To be clear, I'm not going to use the information Mr D has provided to carry out a forensic analysis of whether the payments to this agreement were affordable. I'm simply going to consider what BMF is likely to have done if it obtained the missing information I think it should have done here.

I say this because the information Mr D has provided does appear to show that when his committed regular living expenses and existing credit commitments were deducted from his monthly income, he did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

I accept that Mr D's circumstances were worse than he'd let on. For example, I know he's said he was gambling at the time. Furthermore, having looked at Mr D's bank statements I think it's possible – but by no means certain - that BMF might have decided against lending to Mr D had it seen this information.

But what I need to think about here is what did BMF need to do in order to answer the questions its initial checks left unanswered – in other words, what were Mr D's actual regular living expenses (bearing in his credit commitments were already validated by the credit search and there's an acceptance his income wasn't less than he declared)? – given this was a first agreement and Mr D was being provided with a car rather than cash.

Bearing in mind checking bank statements wasn't the only way for BMF to have found out more about Mr D's actual living costs – it could have obtained copies of bills or other evidence of payment etc – I don't think that proportionate checks would have extended into obtaining the bank statements Mr D has now provided us with. So I don't think that BMF could reasonably be expected to have known about the nature and extent of any additional spending, which I'm now able to see with the benefit of hindsight.

Overall and having carefully considered everything, while I don't think that BMF's checks before entering into this hire purchase agreement with Mr D did go far enough, I've not been persuaded that carrying out reasonable and proportionate checks would have stopped BMF from providing these funds, or entering into this agreement.

So I'm satisfied that BMF didn't act unfairly towards Mr D when it agreed to provide the funds. And I'm not upholding this complaint. I appreciate that this will be disappointing for Mr D. But I hope he'll understand the reasons for my decision and at least consider that his concerns have been listened to.

My final decision

My final decision is that I'm not upholding Mr D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 25 March 2024.

Jeshen Narayanan
Ombudsman