

Complaint

Mr O complains that Startline Motor Finance Limited (“SMF”) unfairly entered into a hire-purchase agreement with him. He’s said that the monthly payments to this agreement were unaffordable given his circumstances at the time.

Background

In August 2022, SMF provided Mr O with finance for a used car. The purchase price of the vehicle was £10,000.00. Mr O didn’t pay a deposit and took out a hire-purchase agreement with SMF for the entire £10,000.00.

The loan had interest charges of £7,285.20 and a £10 option to purchase fee. This meant that the total amount to be repaid of £17,285.20 was due to be repaid in 59 monthly instalments of £287.92 and one final repayment, of £297.92, which included the £10 option to purchase fee.

Mr O complained that the agreement was unaffordable and so should never have been provided to him. SMF didn’t uphold the complaint. It said that its checks confirmed that the finance was affordable and so it was reasonable to lend.

I understand that since Mr O’s complaint the vehicle that was financed has been returned and there is likely to be a remaining balance even when it is sold.

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

Having carefully considered everything, I’ve decided not to uphold Mr O’s complaint. I’ll explain why in a little more detail.

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

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

SMF says Mr O was unemployed at the time it agreed to this application. But this was after Mr O provided details of the benefits he received each month. It says it obtained bank statements in order to verify this. SMF also says that it carried out credit searches on Mr O which had shown Mr O had had historic difficulties with credit – in the form of two settled defaults which took place in 2019 - and some more minor arrears on a home collected credit loan which had been brought up to date by the time of this application.

In SMF's view, when the amount owing plus a reasonable amount for Mr O's living expenses were deducted from his monthly income the monthly payments were still affordable. On the other hand, Mr O says his existing commitments meant 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 O and SMF have said.

The first thing for me to say is that I don't think that the checks SMF carried out did go far enough. I don't think it was reasonable to rely on modelled living costs for Mr O, given it had obtained copies of bank statements to validate the funds he received each month.

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

The information Mr O provided at the time does appear to show that when his committed regular living expenses and existing credit commitments were deducted from what he received each month, he did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

Mr O has said that his partner had payday loans. But SMF carried out a credit search on him and there were no active payday loans in his name at the time. Furthermore, there isn't significant payday loan usage in the copies of the bank statements that Mr O provided to SMF.

Additionally, what I need to think about here is what did SMF need to do in order to answer the questions its initial checks left unanswered – in other words, what were Mr O's actual regular living expenses (bearing in his credit commitments were already validated by the credit search and there appears to be an acceptance his income was correct)? – given this was a first agreement and Mr O was being provided with a car. And all it needed to do was take a look at Mr O's living expenses.

I accept Mr O's actual circumstances at the time might have been worse than he let on – particularly as it's clear he would have wanted the vehicle at the time. I'm sorry to hear about what he has said. But the key thing here is that when Mr O's discretionary spend is removed from the expenditure in the bank statements provided, he did have enough to make the payments to this agreement. Indeed, even though I've not taken this into account here, I'm

also mindful that this vehicle was a family asset and Mr O's partner was likely to contribute to payments too.

Equally, it's only fair and reasonable for me to uphold a complaint in circumstances where a lender did something wrong. And I don't think that SMF could possibly be expected to have realised that this agreement might have been unaffordable for Mr O having considered the information he provided to support his application.

Overall and having carefully considered everything, while I don't think that SMF's checks before entering into this hire-purchase agreement with Mr O did go far enough, I'm satisfied that carrying out reasonable and proportionate checks won't have stopped SMF from providing these funds, or entering into this agreement. And I'm satisfied that SMF didn't act unfairly towards Mr O when it agreed to provide the funds.

So while I've considered everything that Mr O has said, I don't think that SMF acted unfairly or unreasonably towards him. And I'm not upholding this complaint. I appreciate that this will be disappointing for Mr O. But I hope he'll understand the reasons for my decision and at least consider that his concerns have been listened to.

Although I'm not upholding Mr O's complaint, I would like to remind SMF of its obligation to exercise forbearance and due consideration in the event that an outstanding balance remains once it has sold the vehicle, now that it knows about Mr O's difficulty making payments.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 15 January 2024.

Jeshen Narayanan
Ombudsman