

## **Complaint**

Mr K complains that First Response Finance Ltd (“First Response”) unfairly entered into a hire-purchase agreement with him. He’s effectively said that the monthly payments to this agreement were unaffordable given his circumstances at the time and so he shouldn’t have been lent to.

## **Background**

In December 2019, First Response provided Mr K with finance for a used car. The purchase price of the vehicle was £5,944.00. Mr K received a part-exchange of £150 for his existing vehicle and entered into a hire-purchase agreement with First Response for the remaining £5,794.00.

The loan had interest charges of £3,567.93 and a 47-month term. This meant that the total amount to be repaid of £9,361.93 (not including Mr K’s deposit and part-exchange) was due to be repaid in 47 monthly instalments of £199.19.

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

Mr K’s complaint was considered by one of our investigators. She ultimately reached the conclusion that First Response hadn’t done anything wrong or treated Mr K unfairly. So she didn’t recommend that Mr K’s complaint should be upheld. Mr K 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 K’s complaint.

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

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

First Response says it agreed to this application after Mr K provided details of his monthly income and it verified this with payslips. First Response says it also carried out credit searches on Mr K which did show a historic county court judgement ("CCJ") and some other historic difficulties with credit in the form of defaults. However, it also says Mr K demonstrated an improvement in his payment performance since his repayment difficulties.

In First Response's view, when the amount due on Mr K's existing credit commitments plus an estimated amount for Mr K's living expenses were deducted from his monthly income the monthly payments were still affordable. On the other hand, Mr K 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 K and First Response have said.

The first thing for me to say is that I don't think that the checks First Response carried out did go far enough. I don't think it was reasonable to simply rely on Mr K's declaration of living costs given his previous difficulties with credit.

As First Response didn't carry out sufficient checks, I've gone on to decide what I think First Response is more likely than not to have seen had it obtained further information from Mr K. Bearing in mind, what it saw on the credit check, I would have expected First Response to have had a reasonable understanding about Mr K's regular living expenses as well as his income and existing credit commitments.

The information Mr K 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.

I accept Mr K'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. In particular, I've seen what he's said about his CCJ. But the payslip obtained suggests that an amount to repay this was being deducted directly from his salary. And the amount being deducted wasn't enough to call make this agreement unaffordable.

In my view, First Response needed to find out about Mr K's actual living expenses. And I think that if First Response had found out about Mr K's actual living costs and deducted this (as well as what he was paying towards his credit commitments) from his income, it would still reasonably have concluded that Mr K did have enough to make the payments to this agreement.

So overall and having carefully considered everything, while I don't think that First Response's checks before entering into this hire-purchase agreement with Mr K did go far enough, I'm satisfied that First Response doing more in this instance, won't have prevented it from providing these funds, or entering into this agreement. And I'm therefore satisfied that First Response didn't act unfairly towards Mr K when it agreed to provide the funds.

I'm therefore not upholding this complaint. I appreciate that this will be disappointing for Mr K. 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 K's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 28 February 2024.

Jeshen Narayanan  
**Ombudsman**