

Complaint

Mrs C complains that Billing Finance Limited ("Billing Finance") unfairly entered into a hire-purchase agreement with her. She's effectively said that the payments to the agreement were unaffordable and so it shouldn't have been provided to her.

Background

In March 2020, Billing Finance provided Mrs C with finance for a used car. The cash price of the vehicle was £3,074.00. Mrs C didn't pay a deposit and applied for finance to cover the whole amount of the purchase. The loan had interest, fees and total charges of £1,873.04 (comprising of interest of £1,872.04 and an option to purchase fee of £1), and the total amount to be repaid of £4,957.04 was due to be repaid in 35 monthly instalments of £137.39 and one final payment of £138.39.

Mrs C's complaint was considered by one of our investigators. He didn't think that Billing Finance had done anything wrong or treated Mrs C unfairly. So he didn't recommend that Mrs C's complaint should be upheld. Mrs C 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 Mrs C's complaint.

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

Billing Finance needed to make sure that it didn't lend irresponsibly. In practice, what this means is that Billing Finance needed to carry out proportionate checks to be able to understand whether Mrs C could make her payments in a sustainable manner before agreeing to lend to her. And if the checks Billing Finance carried out weren't sufficient, I then need to consider what reasonable and proportionate checks are likely to have shown.

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.

Billing Finance says it agreed to this application after it completed an income and expenditure assessment on Mrs C. During this assessment, Mrs C provided details of her monthly income and bank statements to verify what she'd declared.

Billing Finance says it also carried out credit searches on Mrs C which showed some previous adverse credit information and outstanding balances. But when the amount Mrs C already owed plus a reasonable amount for Mrs C's living expenses were deducted from her monthly income the monthly payments were still affordable. On the other hand, Mrs C says she was already struggling at the time and that these payments were unaffordable.

I've thought about what Mrs C and Billing Finance have said.

The first thing for me to say is that unlike our investigator, I don't think that the checks Billing Finance carried out did go far enough. Billing Finance's searches showed that Mrs C had had previous difficulties with credit. In my view, Billing Finance needed to take further steps to check Mrs C's actual living costs against the bank statements provided, given what the credit search showed in order for its checks to have been proportionate.

As Billing Finance didn't carry out sufficient checks, I've gone on to decide what I think Billing Finance is more likely than not to have seen had it obtained further information from Mrs C. As explained bearing in mind the circumstances, I would have expected Billing Finance to have had a reasonable understanding about Mrs C's regular living expenses using the statements provided as well as her income and existing credit commitments.

I've considered the bank statements Mrs C provided Billing Finance with. And having done so, this information does appear to show that when Mrs C's committed regular living expenses and existing credit commitments are deducted from her monthly income at the time, she did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

I appreciate that Mrs C's position may have been worse than this. For example, I can see that Mrs C was self-employed and this agreement was provided just before the beginning of the pandemic. I know that Mrs C did end up entering into an Individual Voluntary Arrangement and I think that this could well have been because the pandemic had a huge impact on Mrs C's income. I'm sorry to hear that Mrs C has had a difficult time. However, given the unprecedented nature, I don't think that Billing Finance could have foreseen the impact of the pandemic on Mrs C's earnings or taken this into account in its assessment.

So overall and having carefully considered everything, while I don't think that Billing Finance's checks before entering into this hire-purchase agreement with Mrs C did go far enough, I'm satisfied that doing more won't have prevented Billing Finance from providing these funds, or entering into this agreement with her.

I'm therefore satisfied that Billing Finance didn't act unfairly towards Mrs C when it agreed to provide the funds and I'm not upholding Mrs C's complaint. I appreciate that this will be very disappointing for Mrs C. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

My final decision

My final decision is that I'm not upholding Mrs C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 13 May 2024.

Jeshen Narayanan
Ombudsman