

Complaint

Mr S complains that Marsh Finance Limited ("Marsh Finance") unfairly entered into a hire-purchase agreement with him. He's said that the finance wasn't affordable for him.

Mr S is being represented in his complaint by a Claims Management Company ("CMC").

Background

In March 2021, Marsh Finance provided Mr S with finance for a car. The purchase price of the vehicle was £10,610.00. Mr S paid a deposit of £1,500.00 and entered into a 60-month hire-purchase agreement with Marsh Finance to fund the remaining amount.

The amount lent was £9,110.00. The loan had interest, fees and total charges of £5,863.40 (made up of interest of £5,853.40 and an option to purchase fee of £10), and the total amount to be repaid of £14,973.40 was due to be repaid in 58 monthly instalments of £249.56 followed by a final instalment of £259.56.

In January 2024, Mr S complained that the agreement was unaffordable and so should never have been provided to him. Marsh Finance said that its checks confirmed that the finance was affordable and so it didn't think that it had done anything wrong and it was reasonable to lend. Mr S remained dissatisfied and referred his complaint to our service.

Mr S' complaint was considered by one of our investigators. She didn't think that Marsh Finance had done anything wrong or treated Mr S unfairly. So she didn't recommend that Mr S' complaint should be upheld.

The CMC, on Mr S' behalf, 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 S' complaint.

Having carefully considered everything, I'm not upholding Mr S' complaint. I'll explain why I think that this is the case in a little more detail.

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

Marsh Finance says it agreed to this application after Mr S provided details of his monthly income, which was verified by obtaining payslips and open banking information from Mr S. It says it also carried out credit searches on Mr S which did show some existing debts but these weren't excessive and there was any evidence of any recent difficulties making payments.

In Marsh Finance's view, when the amount owing plus a reasonable amount for Mr S' living expenses were deducted from his monthly income the monthly payments were affordable. On the other hand, Mr S 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 S and Marsh Finance have said.

The first thing for me to say is that while the CMC argues that the payslips Mr S provided weren't reflective of his actual income as they included dividend payments, Mr S not only knew this he knowingly provided this to support the declaration of income that he made.

Furthermore, the CMC appears to be speculating that his income may have been less than this without actually providing anything to contradict the information Mr S provided in support of his application at the time. In these circumstances, I don't think that it was unreasonable for Marsh Finance to proceed with the application on the basis of the income information it was provided with.

I've also considered the open banking information that Marsh Finance obtained. And what was provided does appear to show that when Mr S' committed regular living expenses and existing credit commitments were deducted from the amount of the monthly income he declared, he did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

As this is the case, I'm satisfied that not only were the checks that Marsh Finance carried out reasonable and proportionate, it's also the case that Marsh Finance didn't act unfairly in lending to Mr S. This is because the information from the checks showed that it was more likely that not that the monthly payments were affordable.

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

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 27 May 2024.

Jeshen Narayanan

Ombudsman