

Complaint

Mrs P complains that PCF Bank Limited (“PCF”) unfairly entered into a conditional-sale agreement with her. She’s said the agreement was unaffordable for her and she had to take out payday lending as well as ask for help from family in order to make the repayments.

Background

In March 2018, PCF provided Mrs P with finance for a used car. The cash price of the vehicle was £7,330.08. Mrs P paid a deposit of £430.08 and entered into a 60-month conditional sale agreement with PCF for the remaining £6,900.00 needed to complete her purchase.

The loan had interest, fees and total charges of £5,203.60 (made up of interest of £4,753.60 an administration fee of £275 and a title transfer fee of £175) and the total amount to be repaid of £12,103.60 (not including Mrs P’s deposit) was due to be repaid in 60 monthly instalments of £198.91.

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

Mrs P disagreed with our investigator’s assessment and asked for her complaint to be 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 P’s complaint.

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

PCF needed to make sure that it didn’t lend irresponsibly. In practice, what this means is that PCF needed to carry out proportionate checks to be able to understand whether Mrs P could make her payments in a sustainable manner before agreeing to lend to her. And if the checks PCF 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.

PCF says it agreed to this application after it completed an income and expenditure assessment on Mrs P. During this assessment, Mrs P provided details of her monthly income which it verified against copies of bank statements it requested from Mrs P. PCF says it also carried out credit searches on Mrs P which it suggests didn't show any significant adverse information such as defaulted accounts or county court judgments (CCJ) recorded against her. Although it hasn't been able to provide the output of these credit checks.

In PCF's view, when repayments to the amount that Mrs P already owed plus a reasonable amount for Mrs P's living expenses was deducted from her monthly income the monthly payments were still affordable. On the other hand, Mrs P says she was already struggling at the time and that these payments were unaffordable.

I've thought about what Mrs P and PCF have said.

I've thought about what Mrs P and PCF have said. The first thing for me to say is that this wasn't simply a case of PCF relying on what Mrs P said at face value before deciding to lend to her. It obtained a quite a bit of information from Mrs P while considering the application. As Mrs P has pointed out, the bank statements she provided did indicate that she had a history of payday lending. But I don't think that this meant that PCF should simply have assumed that she wouldn't be able to make her payments and automatically declined her application.

Nonetheless, I do think that it was prudent for PCF to obtain this further information from Mrs P in the way that it did – particularly as there is a suggestion that it was struggling to obtain confidence that Mrs P's income declaration was correct based on cross-checking that credit reference agencies did in relation to the funds her main bank account received each month.

To be clear, while PCF did obtain bank statements from Mrs P, I don't think that this means it had to conduct a forensic line-by-line analysis of them in order to establish whether the monthly payments were affordable for her. In my view, it simply needed to carry out a high-level analysis of whether this information showed Mrs P had enough to make her payments. And having considered this information, while I accept that Mrs P will dispute this, I do think that it appears to show that when Mrs P's committed regular living expenses and existing credit commitments were deducted from the income she received each month, she did have the funds to sustainably make the repayments due under this agreement.

I accept it's possible that Mrs P's actual circumstances at the time might have been worse than what I've seen here. For example I've seen what she's said about being on a zero hours contract, having a fluctuating income as a result and that she even told PCF about this. I don't rule out the possibility that Mrs P did tell PCF about her fluctuating income, even though, Mrs P would have been looking to persuade it to lend to her. This is especially as PCF obtaining three months' worth of bank statements from her would support this.

In any event, the important thing here is that if the average amount which Mrs P received over the course of the three-month period, which is likely to be what PCF given it requested this information (and which is also what I consider it would be fair and reasonable to use in these circumstances), is used for an income and expenditure calculation, Mrs P still has enough to make the payments to this agreement as well as meet her existing commitments.

I say this particularly as Mrs P was replacing an existing vehicle and the monthly repayments required here weren't much more than her existing agreement, which she appears to have been sustainably repaying.

So I'm satisfied that PCF did obtain a significant amount of information from Mrs P before lending to her. I'm also satisfied that a reasonable analysis of this information shows that it was reasonable for it to conclude that Mrs P could make to required monthly payments and therefore that it wasn't unfair for PCF to provide these funds to Mrs P, or enter into this agreement with her.

I have also thought about what Mrs P has said about the costs of the agreement being high and this not having been explained to her. However, the information regarding the total cost of the agreement, which is set in the background section of this final decision, is taken directly from the credit agreement Mrs P signed before the funds were paid to the dealership she was purchasing her vehicle from.

In these circumstances, I cannot reasonably conclude that Mrs P wasn't notified of the costs of the agreement before she entered into it and she had the opportunity to ask any questions she may have had at the time if she was unhappy with any of the terms. As Mrs P signed the conditional-sale agreement binding her to its terms, I can only reasonably conclude that she considered them acceptable and was happy to proceed with her purchase, at least at the time.

Overall and having carefully considered everything, I'm therefore satisfied that PCF didn't act unfairly towards Mrs P when it lent to her and I'm not upholding Mrs P's complaint. I appreciate that this will be very disappointing for Mrs P. 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 P's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 8 July 2024.

Jeshen Narayanan
Ombudsman