

Complaint

Miss B complains that CA Auto Finance UK LTD (at the time trading as “FCA Automotive” Services UK Ltd) unfairly entered into a hire-purchase agreement with her. She’s said the high amount of existing debt she had made this agreement unaffordable and so she shouldn’t have been accepted for it.

Background

In July 2019, FCA Automotive provided Miss B with finance for a used car. The total cash price Miss B paid was £8,799.80. Miss B didn’t pay a deposit and entered into a 49-month hire-purchase agreement with FCA Automotive for the entire amount of her purchase.

The loan had interest, fees and total charges of £4,798.60 (made up of interest of £4,399.60, an option to purchase fee of £330.77 and an administration fee of £68.23). So the total amount to be repaid of £13,598.40 was due to be repaid in 59 monthly instalments of £219.99 followed by an optional final monthly payment of £618.99.

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

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

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

FCA Automotive says it agreed to this application after it asked Miss B some information about her employment. FCA Automotive says it also carried out credit searches on Miss B which suggested that Miss B's existing accounts were within their limits and well paid. And as I understand it when the amount Miss B already owed plus a reasonable estimate of Miss B's living expenses (based on her saying that she lived at home with parents), were deducted from her monthly income the monthly payments were still affordable. On the other hand, Miss B says that these payments were unaffordable.

I've thought about what Miss B and FCA Automotive have said.

The first thing for me to say is that I don't think that the checks FCA Automotive carried out did go far enough. In my view, given the amount of the monthly payments and FCA Automotive has not been able to provide a copy of its credit checks, I'm not satisfied that FCA Automotive did enough to ascertain that Miss B would be able to make the repayments required for this agreement.

As FCA Automotive didn't carry out sufficient checks, I have gone on to decide what I think FCA Automotive is more likely than not to have seen had it obtained further information from Miss B. Given the circumstances here, I would have expected FCA Automotive to have had a reasonable understanding about Miss B's regular living expenses as well as her income and existing credit commitments.

I've considered the information Miss B has provided us with. And having done so, this information does appear to show that when Miss B's committed regular living expenses and existing credit commitments are deducted from the funds she received, she did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

I accept it's possible that Miss B's actual circumstances at the time might have been worse than what the information shows. For example, I've seen Miss B says that she was on a temporary employment contract. But I can't see that she declared this and I don't see how FCA Automotive could be expected to know this. Furthermore, while Miss B is unhappy that this agreement prevented her from being able to make larger payments to her creditors, I'm afraid that FCA Automotive didn't have reason to believe this was the case.

I say this while mindful that the information provided does suggest that Miss B had the funds to make increased payments. Equally, while Miss B was using an overdraft her pattern of spending makes it difficult to reasonably conclude that she was trapped into doing so and shouldn't have been lent to in any circumstances as a result.

Indeed, I have to keep in mind that Miss B's most recent submissions are being made in support of a claim for compensation and any explanations she most likely would have provided at the time are more likely to have been with a view to persuading FCA Automotive to lend, as at that stage she wanted the vehicle she'd chosen, rather than highlighting any unaffordability.

Overall and having carefully considered everything, while I don't think that FCA Automotive's checks before entering into this hire-purchase agreement with Miss B did go far enough, I've not been persuaded that reasonable and proportionate checks would have prevented FCA Automotive from providing these funds, or entering into this agreement with her.

This means I've not been persuaded that FCA Automotive acted unfairly towards Miss B when it lent to her and I'm not upholding the complaint. I appreciate that this will be very

disappointing for Miss B. 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 Miss B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 4 July 2024.

Jeshen Narayanan
Ombudsman