

The complaint

Mr V complains Oodle Financial Services Limited trading as Oodle Car Finance shouldn't have lent to him as he couldn't afford the finance.

Mr V in bringing his complaint is represented by a third party. For ease of reading I will only refer to Mr V in my decision.

What happened

In June 2019 Mr V acquired a car when he entered into a hire purchase agreement with Oodle. The cash price of the car was £8,200 after interest and charges were applied the total amount Mr V needed to repay was £14,450.20, over 60 months at £239.17 a month. Mr V said he was financially disadvantaged as Oodle didn't do enough to ensure he could sustain the repayments. He complained to Oodle that the lending was unaffordable for him.

Oodle said they'd checked Mr V's income, his credit commitments through a credit reference agency and used statistical data to establish his outgoings. His credit report showed he'd previous financial difficulty, but this had been several years before. And from the evidence they'd seen the lending was affordable for him.

Mr V wasn't happy with Oodle's response and referred his complaint to us.

Our investigator said Oodle hadn't been fair in using statistical data considering the amount and the length of time Mr V would be indebted. She said they should have done further checks to establish Mr V's financial situation. If they had they would have seen the lending was unaffordable as he didn't have sufficient disposable income to sustain the repayments.

Oodle didn't agree they said based on the disposable income available to Mr V the lending was affordable. They asked for an ombudsman to decide.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so I'm upholding Mr V's complaint, I'll explain why.

I've considered the relevant rules, guidance and good industry practice when someone complains about irresponsible and/or unaffordable lending. There are two overarching questions I need to consider in order to decide what's fair and reasonable in all of the

circumstances of the complaint. These are:

1. Did Oodle complete reasonable and proportionate checks to satisfy themselves that Mr V would be able to repay the credit in a sustainable way?

- a. if so, did Oodle make a fair lending decision?

b. if not, would reasonable and proportionate checks have shown that Mr V could sustainably repay the borrowing?

2. Did Oodle act unfairly or unreasonably in some other way?

Regulations in place at the time Oodle lent to Mr V required them to carry out a reasonable assessment of whether he could afford to repay the loan in a sustainable manner. So, I've considered the checks Oodle did.

Before the finance was provided, Oodle explained that they carried out affordability checks before approving Mr V's application. They said Mr V had given details about his job and salary when making his application. He'd also said he was a tenant renting a property.

They said they checked Mr V's income. And his credit commitments by reviewing Mr V's credit history. This showed he'd one credit card with a credit limit of £450 that showed a zero balance. He also had a current account. There was evidence of two defaulted accounts but this was in 2014 some five years before the agreement.

CONC.52A.15(2) says:

"The firm must take reasonable steps to determine the amount, or make a reasonable estimate, of the customer's current income."

And I can see that Oodle verified Mr V's declared income from his application with the provision of a payslip.

CONC 5.2A.17(2) says:

"The firm must take reasonable steps to determine the amount, or make a reasonable estimate, of the customer's current non-discretionary expenditure."

Oodle said they checked Mr V's credit history and used statistical data to determine his other non-discretionary spending which included car running costs and cost of living outgoings. But I haven't seen the details of the statistical data they used.

From the application information Mr V said he'd been at his current address for around four months. His credit history didn't show any outgoings for utilities. Neither did it show any credit commitments for car insurance. So, this could have been additional expenditure that Mr V would have had. And Oodle said their statistical data considered this.

I can see that Oodle had a bank statement for April 2019 which they said showed Mr V wasn't using his overdraft and that they couldn't see any additional credit commitments. But again, from this I didn't see any utilities or car running costs. But I can see payments out of the account for £950 and £475 before Mr V's credit commitments and other non-discretionary spending are accounted for. Which I think should have prompted further checks.

Whilst Oodle has confirmed it used statistical information to try and estimate Mr V's typical financial commitments each month, this wasn't a borrower-focused check. I haven't seen evidence to show that Oodle asked Mr V about the above transactions or about his other expenditure. Without knowing what Mr V's regular committed expenditure was, I don't think Oodle would have got a reasonable understanding of whether the agreement was affordable or not. I say this as Mr V had experienced financial difficulties albeit several years prior. But given the time and the amount he would be indebted for I don't think it was enough for Oodle to rely on statistical data to determine Mr V's outgoings as I think there was evidence from

his bank statement that the level of Mr V's non-discretionary spending might differ from the statistical sample. So, I'm not satisfied Oodle's checks were proportionate.

This doesn't automatically mean Oodle shouldn't have lent to Mr V as I need to consider whether these checks would have shown that the repayments were unaffordable for him – or in other words that he lost out because of Oodle's failure to complete proportionate checks. I can't be sure exactly what Oodle would have found out if they'd asked or what Mr V would have told them about his financial situation. In the absence of anything else, I think it would be reasonable to place significant weight on the information set out in Mr V's bank statements.

Our investigator averaged Mr V's income over three months to be £1,655.63 and having reviewed Mr V's three months bank statements I concur that this is a reasonable figure. But I differ with the average monthly expenditure Mr V had for his non-discretionary spending. Our investigator considered Mr V's credit card commitment, food, phone and rent. And said this would be £1,314.99, leaving Mr V after the new lending was factored in around £100 in disposable income for discretionary and unexpected costs. But I don't agree I can see from Mr V's statements that he also had a monthly council tax payment of around £185 which I don't think had been accounted for.

So, I think Mr V's non-discretionary spending for food (£194), rent (£950), council tax (£185), car running costs (£100), credit card (£23) and phone (£23) was around £1,475. This would have left Mr V with around £181 before the new lending of £239.17 was factored in which was insufficient to sustain the repayments under the finance agreement. So, I don't think the lending was affordable for Mr V.

Putting things right

Our approach in situations such as these is to put the consumer back into the position they'd have been in if the loan agreement hadn't been taken out.

The original cash price of the car was £8,200, to put things right, Mr V shouldn't have to pay any more than this. I can see from Oodle's statement of account that Mr V has paid in excess of this amount.

I've also considered whether Oodle acted unfairly or unreasonably in some other way given what Mr V has complained about, including whether their relationship with him might have been viewed as unfair by a court under s.140A Consumer Credit Act 1974. But because I'm upholding Mr V's complaint already for the reasons I've explained I don't think I need to make a finding on this. And I'm satisfied the redress I have directed below results in fair compensation for Mr V in the circumstances of his complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

My final decision

I uphold this complaint. And ask Oodle Financial Services Limited trading as Oodle Car Finance to:

- End the agreement, transferring ownership of the car to Mr V with nothing further to pay.
- Refund Mr V any amount he'd paid in excess of the cash price of £8,200, adding 8% simple interest from date of over payment to date of settlement.
- Remove any adverse information recorded about the agreement to Mr V's credit file.

Should HM Revenue & Customs require Oodle Financial Services Limited to take off tax

from this interest. Oodle Financial Services Limited must give Mr V a certificate showing how much tax they have taken off if he asks for one

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 26 August 2024.

Anne Scarr
Ombudsman