

The complaint

Mr B complains that BMW Financial Services (GB) Limited (BMWFS) was irresponsible in its lending to him. He wants all interest and charges paid refunded (along with interest).

Mr B is represented by a third party but for ease of reference I have referred to Mr B throughout this decision.

What happened

Mr B was provided with a hire purchase agreement by BMWFS in June 2019 to finance the acquisition of a car. Mr B said that adequate checks weren't carried out before the agreement was provided and had this happened it would have realised that the lending wasn't affordable for him. He said that the provision of the finance exacerbated his financial vulnerability.

BMWFS said that when an application is received it carries out creditworthiness and affordability checks using a combination of its bespoke credit scoring criteria, internal policies and data from credit reference agencies. It said its checks raised no creditworthiness or affordability concerns and noted that Mr B had made all payments due under the agreement on time and in full and said there was nothing on his file to show he was in financial difficulty.

Mr B referred his complaint to this service.

Our investigator noted that BMWFS had detailed the checks it carried out but said he hadn't been provided evidence of these and that he hadn't seen that Mr B's income had been verified. He noted the term of the agreement and said that BMWFS needed to ensure that Mr B would be able to sustainably afford the repayments over the term. Based on what our investigator had seen he wasn't satisfied that reasonable and proportionate checks took place before the finance was provided.

Our investigator assessed what would most likely have been identified had proportionate checks taken place. Having done so he didn't find that the checks would have suggested the agreement to be unaffordable. Therefore, he didn't uphold this complaint.

Mr B didn't agree with our investigator's view. He said that a thorough review of his finances should have taken place before the lending was provided and had this happened, BMWFS would have found that Mr B's mortgage payment was returned due to insufficient funds in March 2019 which should have raised concerns about his financial stability. He also said that the calculation of his disposable income didn't take into account fluctuations in income or any unexpected expenses.

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.

Our general approach to complaints about unaffordable or irresponsible lending – including the key rules, guidance and good industry practice – is set out on our website.

The rules don't set out any specific checks which must be completed to assess creditworthiness. But while it is down to the firm to decide what specific checks it wishes to carry out, these should be reasonable and proportionate to the type and amount of credit being provided, the length of the term, the frequency and amount of the repayments, and the total cost of the credit.

BMWFS has explained the checks it carried out before the lending was provided and that these didn't raise concerns about Mr B's credit worthiness or the affordability of the agreement. While I have noted these comments, I haven't seen evidence of the checks or the results of these. Therefore, I cannot say that reasonable and proportionate checks took place before the finance was provided. Because of this, I have looked through the evidence that has been provided to see what would have been identified had proportionate checks taken place.

Mr B has provided a copy of his credit file and his bank statements for the months leading up to the agreement being provided. While I do not necessarily think that BMWFS was required to request copies of the bank statements I do find that it needed to have a thorough understanding of Mr B's financial situation and his credit history before lending. I have therefore relied on the information contained in the report and statements to assess whether I think the lending was responsible.

While I note that the credit report is from 2024 and may not contain all of the information available in a report generated at the time of lending, based on what I have seen, I do not find I can say Mr B's credit file contained information that suggested he was struggling financially.

I have looked through Mr B's bank statements for the three months leading up to the lending and these show that he received an average monthly income of around £1,696. Mr B was making regular payments towards his mortgage and other credit commitments, utilities, communication contracts, a sports membership as well as other general living costs. Taking this into account and including the repayments due under the hire purchase agreement left Mr B with monthly disposable income of over £500. I note Mr B's comment about this not taking into account the fluctuation in his income and unexpected costs, but I find it reasonable to use an average of three months' income in the assessment. And noting Mr B's disposable income after the repayments were made, I find this suggests the agreement was affordable for Mr B.

Taking all of the above into account, I find that proportionate checks wouldn't have raised concerns about the affordability of the agreement.

Mr B has also said that the interest rate charged was excessive. However, information about this was contained within the agreement along with the cost of the credit, total amount repayable and the monthly repayment amounts. Therefore, I find that Mr B was provided with the information he needed to make an informed decision about whether or not to accept the agreement terms. Had he signed the agreement and then changed his mind, he could have exercised his 14 day right to withdraw.

I've also considered whether BMWFS acted unfairly or unreasonably in some other way given what Mr B has complained about, including whether its relationship with him might have been unfair under s.140A Consumer Credit Act 1974. However, for the reasons I've already given, I don't think BMWFS lent irresponsibly to Mr B or otherwise treated him

unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 6 December 2024.

Jane Archer
Ombudsman