

## **The complaint**

Mr W complains that Specialist Motor Finance Limited (SMFL) was irresponsible in its lending to him. He wants all interest, fees and charges paid under his hire purchase agreement refunded along with interest.

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

## **What happened**

Mr W was provided with a hire purchase agreement by SMFL in March 2018 to finance the acquisition of a car. The agreement had a term of 42 months and Mr W was required to make 41 monthly repayments of around £276 followed by a final repayment of around £286. Mr W said that at the time the finance was provided he was already struggling financially. He didn't accept that adequate checks were carried out to ensure the lending was affordable for him and said that had these checks taken place SMFL would have found that he had several debts outstanding. He said that the finance agreement wasn't affordable.

SMFL issued a final response letter dated 30 January 2024. It said that it used a risk-based framework based on creditworthiness with customers assessed using bespoke scorecards. It said when Mr W applied for finance, he declared a net monthly income of £3,000 and said he was a homeowner. It carried out a credit check which showed Mr W had eight active accounts of which seven were up to date. He had one defaulted account, but it was over a year since the default. SMFL verified Mr W's income through a credit reference agency and used third party data to assess Mr W's cost of living. It calculated Mr W's existing credit commitments based on its credit check results. Based on its assessment SMFL said the agreement was affordable for Mr W.

Mr W referred his complaint to this service.

Our investigator noted the checks that SMFL had carried out before lending and said these showed that Mr W had outstanding creditor liabilities of over £19,000 and had taken out finance in the recent months. He also noted that Mr W hadn't been keeping a utility account up to date which could suggest he was experiencing financial difficulties. Taking this into account he thought that further checks should have been carried out before the lending was provided to ensure that it was affordable for Mr W.

Our investigator considered what SMFL would likely have identified had further checks taken place and found that these wouldn't have suggested the agreement was unaffordable. Therefore, he didn't uphold this complaint.

Mr W didn't accept our investigator's view. He reiterated that he had several outstanding debts at the time, was reliant on sub-prime lenders and was making regular use of his overdraft. He said this showed he was financially vulnerable. Mr W also said his other commitments including his mortgage meant that the additional repayments required under the agreement plus the costs of running the car were not sustainably affordable for him.

## **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.

Before lending to Mr W, SMFL gathered information about Mr W's employment, income and residential status. It checked Mr W's income against credit reference data and carried out a credit search. Having looked through the credit search results these showed that Mr W had outstanding loans, including a loan taken out a couple of months before this application, a credit card account, current account, two communications accounts and a utility account. While he was up to date on seven of his accounts, he had missed several payments on his utility account. Mr W also had a defaulted account with an outstanding balance of £236. While the default appeared to have been recorded around a year prior to the application, given Mr W had recent missed payments on his utility account, I think this should have raised concerns that he might be struggling to manage his existing commitments. Also noting that his total outstanding balance (including the defaulted account) totalled over £19,000 I think that further checks were required in this case to ensure any additional lending would be affordable for him.

Mr W has provided copies of his bank statements for the months leading up to the agreement. While SMFL wasn't required to request copies of Mr W's bank statements, as I think it should have undertaken further checks to get a more thorough understanding of Mr W's financial circumstances, I have looked at the information contained in his statements to understand what SMFL would likely have identified had further checks taken place.

In the three months leading up to the agreement being provided, Mr W's net monthly income from his employer was just below the £3,000 he declared (around £2,975). Mr W was also receiving additional transfers into his account (averaging over £1,000 a month) which are noted as being from his flatmate. Mr W's credit commitments shown on SMFL's credit check were supported by his bank statements (around £850). Mr W had regular costs for housing, utilities, communications as well as his general living costs (around £1,650). Taking this all into account, I do not find that I can say that further checks would have shown that the SMFL agreement repayments (around £276) were unaffordable.

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

reject my decision before 18 December 2024.

Jane Archer  
**Ombudsman**