

The complaint

Mr C complains through a representative that First Response Finance Ltd (“First Response”) failed to conduct adequate affordability checks before it provided a hire purchase agreement.

What happened

In March 2021, First Response provided Mr C with a hire purchase agreement for a used motorbike. The cash price of the bike was £3,689 and no deposit was paid. Interest, fees and charges were £1,525.60 with a total to be repaid of £5,214.60. The agreement had an APR of 26.9%. Mr C was due to make 36 monthly repayments of £144.85. First Response confirms the agreement was settled in April 2023.

First Response considered Mr C’s complaint and didn’t uphold it. It concluded adequate checks were conducted which showed the agreement to be affordable. Unhappy with this response, Mr C’s representative then referred the complaint to the Financial Ombudsman Service.

Mr C’s complaint was considered by an investigator, and she didn’t uphold it. She said that the checks carried out by First Response were proportionate and it didn’t need to carry out any further verification. The agreement appeared affordable.

Mr C’s representative disagreed with the investigator’s outcome saying the income used by First Response was incorrect. First Response only using the “*top line*” Mr C received and didn’t project his income across the year. Mr C also provided copies of his tax returns. These comments didn’t change the investigator’s mind and as no agreement could be reached the complaint has been passed to me 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.

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

First Response needed to make sure that it didn’t lend irresponsibly. In practice, what this means is that First Response needed to conduct proportionate checks to be able to understand whether any lending was sustainable for Mr C before providing it.

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.

As a starting point, First Response is entitled to rely on the information it was given by Mr C unless it knew or ought to have known that it wasn't likely to be accurate. In this complaint, Mr C said he worked full time as a self-employed joiner, and he received a monthly salary of £3,170.71. He also declared he received child benefit payments of £34.05 per week. However, Mr C says this is income wasn't accurate but he did supply this information to First Response and secondly, First Response didn't just accept what Mr C declared.

First Response took steps to verify Mr C's income by looking at his bank statements. I appreciate that Mr C has now provided tax returns, but the bank statements were a reasonable way for First Response to go about checking his income.

While Mr C was self-employed and so he would've had costs and overheads associated with the income received into the bank – I do think it was reasonable to have relied on what the statements showed that suggested the credits to the account were broadly in line with what Mr C declared his income was. In the circumstances, it would therefore be reasonable for First Response to have used a monthly income of £3,170.71 plus the child benefit.

First Response also conducted a credit search and it's provided a copy of the results that it received from the credit reference agency. A review of the results it was given didn't suggest that Mr C was either overindebted, having, or likely having, financial difficulties or that this loan wasn't sustainable for him.

There was a historic default from 2015, and that was in my view too long before the loan start date to have given First Response any cause for concern about Mr C's ability to repay this agreement. And recently, all the active accounts had been well maintained with the only missed payments being made around the outbreak of the COVID-19 pandemic. First Response calculated that Mr C already had around £520 per month of existing credit commitments and it used this figure as part of its affordability assessment and that seems reasonable to me.

Mr C also gave details of his living costs such as housing and then First Response made some general assumptions about his living costs using statistical data – which I don't think was unreasonable. Based on what Mr C declared, the credit check results and the assumptions made by First Response it could see the loan was affordable.

Overall, I don't see a reason why First Response would've thought, given everything it had gathered as well as and what it saw in the credit file, that Mr C wouldn't be able to either afford his repayment or sustainably make them. I am therefore not upholding Mr C's complaint.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think First Response lent irresponsibly to Mr C 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

For the reasons I've explained above, I'm not upholding Mr C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or

reject my decision before 2 January 2025.

Robert Walker
Ombudsman