

The complaint

Mrs O complains that BMW Financial Services (GB) Limited was irresponsible in its lending to her. She wants all interest and charges she has paid under her hire purchase agreements refunded along with 8% simple interest. She also wants any adverse information recorded on her credit file regarding these agreements removed.

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

What happened

Mrs O was provided with two hire purchase agreements by BMWFS. One in February 2018 and one in July 2020. Under the first agreement, Mrs O paid a deposit of £2,000 and was then required to make 47 monthly repayments of around £394 followed by an optional final payment of around £9,936. Under the second agreement Mrs O paid a deposit of £2,500 and was required to make 47 monthly repayments of around £510 followed by an optional final payment of around £14,690.

Mrs O said that adequate checks weren't undertaken before the agreements were provided to ensure they would be affordable for her.

BMWFS issued a final response to Mrs O's complaint dated 24 March 2024. It said that creditworthiness and affordability checks were carried out before the lending was provided using the information provided at the time of application. It said that Mrs O's credit file raised no creditworthiness or affordability concerns and so her application was approved. It noted that Mrs O had maintained all of her payments.

Mrs O referred her complaint to this service.

Our investigator acknowledged the checks BMWFS carried out before the agreements were provided and noted BMWFS had said that no manual review was required for Mrs O's first application but that a manual review took place on her second application. However, as he hadn't seen evidence of the checks, he didn't find he could say whether these were proportionate. He therefore considered what proportionate checks would have identified.

Our investigator reviewed Mrs O's bank statements for the months leading up to the two lending decisions and the information contained in her credit report. He said that these checks didn't show that the agreements were unaffordable.

Mrs O didn't agree with our investigator's view, noting differences in the income and expenditure figures to her calculations.

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 the agreements were provided, BMWFS has said that it carried out creditworthiness and affordability checks and I note that a manual underwriting decision was made on the second agreement. But as the results from these checks haven't been provided, I cannot say whether or not the checks were reasonable and proportionate. I have therefore considered what BMWFS would likely have identified through proportionate checks.

BMWFS weren't required to request copies of Mrs O's bank statements, but I have used the information contained in these, along with Mrs O's credit report, to identify what reasonable checks would have shown.

Agreement one: February 2018

The credit report that Mrs O has provided is dated February 2024. As information is only generally recorded on a credit file for six years, there is minimal information contained within the report about Mrs O's situation at the time the first agreement was provided. However, I note the information that is displayed for the months following this agreement being provided doesn't raise concerns that would suggest Mrs O was struggling with her credit commitments around that time.

I have looked through Mrs O's banks statements for the three months leading up to her February 2018 application. These show her average monthly income to be around £3,260. Mrs O also received payments into her account of £500 in November 2017 and £600 in January 2018 from a third party.

Mrs O paid £1,050 a month for rent and her average expenses for her existing financial commitments, and regular costs such as utilities, insurances and communication contracts totalled around £1,485. This gives regular costs before the BMWFS agreement of around £2,535. Deducting the BMWFS agreement costs would leave net disposable income of around £331 to cover Mrs O's general living costs such as food and fuel. While this isn't a large amount, I also note that Mrs O received substantial transfers into her account from a third party in two of the three months. Therefore, on balance, I do not find that I have enough to say that proportionate checks would have shown the first agreement to be unaffordable.

Agreement two: July 2020

Mrs O maintained her repayments on the first agreement and so I do not find that BMWFS should have been concerned by Mrs O's previous account management. I also note that the first agreement was settled with the second agreement and so only the cost of the second agreement needs to be included in the assessment.

Looking at the credit report Mrs O has provided, I do not find this suggested that she was experiencing issues maintaining her credit commitments.

I have looked through Mrs O's bank statements for the months preceding the July 2020 application. These show her average monthly income to be around £3,310. Mrs O also received regular payments into her account averaging around £1,370 from a third party. These were received in May and June 2020 and continued in July 2020. We asked for

further details about these payments, but this hasn't been provided. While I cannot say for certain that these payments were contributions towards costs, given the regular nature of the payments and that they were ongoing, I have noted these in my consideration of this case.

Mrs O paid £1,050 a month for rent and her average expenses for her existing financial commitments, and regular costs such as utilities, insurances and communication contracts totalled around £1,550. This gives regular costs before the BMWFS agreement of around £2,600. Deducting these costs from Mrs O's income (excluding the payments from the third party) leaves net disposable income of around £710 to cover the cost of the new agreement and Mrs O's general living costs such as food and fuel. The agreement repayments were around £510, however as this agreement replaced Mrs O's existing hire purchase agreement under which repayments of around £394 were required, the net increase in her payments for this agreement was around £116. Deducting this from Mrs O's disposable income would leave around £594 for her general living costs. While this may not leave much room for any unforeseen costs after payments for food and fuel are made, I do not find I can say that this suggested the agreement to be unaffordable. And further noting the additional payments into Mrs O's account, I do not find I have enough to say that proportionate checks would have shown the agreement to be unaffordable.

I've also considered whether BMWFS acted unfairly or unreasonably in some other way given what Mrs O has complained about, including whether its relationship with her might have been viewed as unfair by a court under Section 140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think BMWFS lent irresponsibly to Mrs O or otherwise treated her 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 Mrs O to accept or reject my decision before 20 March 2025.

Jane Archer
Ombudsman