

The complaint

Mr P complains that Specialist Motor Finance Limited ("SMF") was irresponsible to lend to him and did not respond appropriately to his financial difficulties.

What happened

Mr P was approved for a car loan with SMF on 8 June 2018. He borrowed £4,391 and needed to repay £149.03 per month over four years.

Mr P says the lending was irresponsible as SMF should have seen previous defaults and missed payments and he'd already been declined for car finance elsewhere. He says that SMF also refused to change his repayment frequency to four-weekly, instead of monthly, which caused bank fees and worsened his financial situation. Mr P adds that, after 8 months, he needed to spend £2,500 on repairs to the car and his income was reduced. He says that SMF did not offer any assistance with his financial hardship, and he had to borrow further. This, in turn, he says, worsened both his financial position and existing mental health issues.

SMF says it verified Mr P's income and used industry-standard data to estimate his cost of living. It says that once his monthly credit commitments were included, it calculated Mr P had a disposable income of around £880. It said that, as the repayments were £149 per month, it was satisfied they were affordable. SMF added that, as it's offering a sub-prime product, it would not be unusual to see missed payments and defaults on a customer's credit file. SMF says it was not proportionate to carry out any further checks, but acknowledged he'd had a change of circumstances during the loan term and surrendered the vehicle.

Our investigator recommended the complaint should be upheld. He was not satisfied that SMF had carried out proportionate checks and found that, had it done so, it would have found the loan was unaffordable to Mr P. Our investigator considered Mr P should pay for the 13 months he had the car and that £91 per month was a fair figure. He also said that additional distress was caused to Mr P by the delays in responding to his complaint. He considered £200 was reasonable for this.

SMF responded to say that although it accepts Mr P's circumstances may have been worse than he'd been letting on, it did not believe further checks were required. In particular it said:

- It verified Mr P's income;
- The three defaults were almost two years earlier and their balances were reducing;
- Short-term lending would not have appeared on its credit check;
- It is acceptable to use statistical data to estimate outgoings;
- Mr P made his loan repayments on time until the car broke down;

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.

I need to take into account the relevant rules, guidance and good industry practice.

Bearing this in mind, in coming to a decision on Mr P's case, I have considered the following:

- Did SMF complete reasonable and proportionate checks when assessing Mr P's loan application to satisfy itself that he'd be able to repay the loan in a sustainable way?
 - If not, what would reasonable and proportionate checks have shown?
- Did SMF make a fair lending decision?
- Did SMF act unfairly or unreasonably in some other way?

When Mr P applied for the loan, I've seen evidence to show SMF checked his credit file and asked him about his income and living arrangements. These checks showed:

- Mr P was living with his parents and had a verified income of £1,600;
- Six active credit accounts:
 - Two recent loan accounts with combined repayments of £363;
 - Three comms accounts – one with a recent missed payment;
 - A credit card account which was slightly over its credit limit;
- Three accounts that defaulted in 2016:

SMF used statistical data to estimate Mr P's rent as £114 and living costs as £157. It calculated his existing credit commitments at £450 per month.

I accept SMF says that it's offering a sub-prime product and it's not unusual to see defaults and missed payments, however, I'm not satisfied the checks went far enough because:

- Mr P was already committing 28% of his income to credit repayments and, with the new loan, this increased to over 37%;
- Given a large proportion of Mr P's income was committed to credit repayments, I don't find it was appropriate to use an estimate for his other costs;
- Although Mr P's defaults were in 2016, he had a clear history of financial difficulty and SMF needed to be sure that his repayments going forwards were sustainable;
- The breached limit and missed payment could be indicators Mr P may be struggling;
- Mr P had taken out two other loans within the preceding eight months.

So I've had a look at Mr P's bank statements as a reasonable proxy for what proportionate checks may have shown:

- Mr P was paying £400 per month in rent with food and petrol costing at least £250;
- Other regular expenditure on items including insurance, communications, car costs and the gym came to around £360;
- Loan repayments were £363;

This left Mr P with less than £230 per month from which to make credit card repayments and regular payments to at least three short-term lenders. In addition, there were multiple returned direct debits and significant charges for using an unarranged overdraft facility.

So, I'm satisfied that the car loan from SMF was unaffordable to Mr P, and he was already showing clear signs that he was struggling financially.

In summary, I don't find SMF made a fair lending decision, but I acknowledge Mr P had use of the car for 13 months and it's reasonable that he pays towards this. Although monthly repayments were £149, much of this was interest and so I consider £91 is a fair monthly contribution. So, in total I calculate Mr P should pay £1,183 towards the loan agreement.

I've also seen evidence that Mr P complained to SMF in April 2024 and delays in responding caused further unnecessary stress for him. I consider SMF should pay Mr P £200 for this.

Finally, I've also considered whether SMF acted unfairly or unreasonably in any other way, including whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. I'm satisfied that no additional award would be appropriate in this case.

My final decision

My decision is that I uphold this complaint. Specialist Motor Finance Limited should:

- Calculate the amount Mr P paid in total and deduct £1,183 for fair usage;
- Refund any overpayments, adding 8% simple interest per year* from the date of payment to the date of settlement;
- Remove any adverse information recorded on Mr P's credit file about the agreement;
- Pay Mr P £200 for distress and inconvenience caused by the delay in responding;
- If there is still an outstanding balance, SMF should arrange an affordable repayment plan with Mr P for the remaining amount.

*HM Revenue & Customs requires SMF to deduct tax from any interest. It must give Mr P a certificate showing how much tax has been taken off if he asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting tax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 27 February 2025.

Amanda Williams

Ombudsman