

Complaint

Mr T complains that Startline Motor Finance Limited ("SMF") unfairly entered into a hire-purchase agreement with him. He's said that the monthly payments to this agreement were unaffordable given his circumstances at the time.

Background

In August 2018, SMF provided Mr T with finance for a used car. The purchase price of the vehicle was £7,351.41. Mr T didn't pay a deposit and took out a 49 month hire-purchase agreement with SMF for the whole amount of the purchase.

The loan was for £7,351.41 had interest charges of £3,061.15 and a £10 credit facility fee. This meant that the total amount to be repaid of £10,412.56 was due to be repaid in 47 monthly instalments of £216.72 followed by one final payment of £226.72.

Mr T complained that the agreement was unaffordable and so should never have been provided to him. SMF didn't uphold the complaint. It said that its checks confirmed that the finance was affordable and so it was reasonable to lend.

Mr T's complaint was considered by one of our investigators. He didn't think that SMF had done anything wrong or treated Mr T unfairly. So he didn't recommend that Mr T's complaint should be upheld.

Mr T disagreed with our investigator's assessment and the complaint was passed to an ombudsman for a final decision.

My findings

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 T's complaint.

Having carefully considered everything, I've decided not to uphold Mr T's complaint. I'll explain why in a little more detail.

SMF needed to make sure that it didn't lend irresponsibly. In practice, what this means is that SMF needed to carry out proportionate checks to be able to understand whether any lending was sustainable for Mr T 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.

SMF says Mr T declared that he was employed at the time and that he received around £1,300.00 a month. It says it cross checked Mr T's declaration against information provided by credit reference agencies on the amount of funds going into his main bank account each month. SMF also says that it carried out credit searches on Mr T which had shown Mr T had existing credit commitments which were being well paid. Although it was aware of a defaulted account from February 2015.

In SMF's view, when the amount owing plus a reasonable amount for Mr T's living expenses were deducted from his monthly income the monthly payments were still affordable.

On the other hand, Mr T says his existing commitments meant that these payments were unaffordable and there was no way he was going to be able to maintain them.

I've thought about what Mr T and SMF have said.

The first thing for me to say is that I don't think that the checks SMF carried out did go far enough. I don't think it was reasonable to rely on modelled living costs for Mr T, given the, what was albeit historic, defaulted account, the amount being borrowed, the cost of the credit and the term of the agreement. In these circumstances, I think that SMF needed to do more to find out about Mr T's actual living expenses. As I can't see that SMF did this, I don't think that the checks it carried out before providing this finance were reasonable and proportionate.

As SMF didn't carry out sufficient checks, I've gone on to decide what I think SMF is more likely than not to have seen had it obtained further information from Mr T. As I've explained, bearing in mind the circumstances here, I would have expected SMF to have had a reasonable understanding about Mr T's regular living expenses as well as his income and existing credit commitments.

The information Mr T has provided from the time does appear to show that when his committed regular living expenses were added to payments to the credit commitments SMF knew about and then deducted from what he received each month, he did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

Mr T has completed his own income and expenditure assessment and says that this shows he wouldn't have been left with sufficient funds to cover any emergencies. However, Mr T appears to have included larger payments to credit commitments than what SMF was reasonably entitled to believe he would pay, as a result of its credit checks. Secondly, even after having carried out his own analysis based on his bank statements, which SMF did not need to request from him, Mr T appears to have had a reasonable amount left over.

Given this is the case despite including all of his expenditure, which a proportionate check in this instance is unlikely to have gone as far as, what Mr T has provided me with does not persuade me that the monthly payments weren't affordable for him. Indeed, it's worth noting that Mr T did make all of his payments on time and as per his agreement. While I accept that this is not in itself determinative, I do think it lends weight to the argument Mr T was able to make his payments and that he did have sufficient funds notwithstanding the arguments that he's now making sometime after he already fully repaid the credit.

Overall and having carefully considered everything, while I don't think that SMF's checks before entering into this hire-purchase agreement with Mr T did go far enough, I'm satisfied that carrying out reasonable and proportionate checks won't have stopped SMF from providing these funds, or entering into this agreement.

In reaching my conclusions, I've also considered whether the lending relationship between SMF and Mr T might have been unfair to Mr T under section 140A of the Consumer Credit Act 1974 ("CCA").

However, for the reasons I've explained, I don't think SMF irresponsibly lent to Mr T or otherwise treated him unfairly in relation to this matter. And I haven't seen anything to suggest that section 140A CCA or anything else would, given the facts of this complaint, lead to a different outcome here.

So while I've considered everything that Mr T has said, I don't think that SMF acted unfairly or unreasonably towards him. And I'm not upholding this complaint. I appreciate that this will be disappointing for Mr T. But I hope he'll understand the reasons for my decision and at least consider that his concerns have been listened to.

My final decision

My final decision is that I'm not upholding Mr T's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 17 February 2025.

Jeshen Narayanan
Ombudsman