DRN-5274855

The complaint

Mr L complains that N.I.I.B Group Limited trading as Northridge Finance ('Northridge') irresponsibly entered into a hire purchase agreement with him. He says Northridge failed to take reasonable steps to ensure he could make repayments under the agreement sustainably.

Mr L also raises concerns about the commission the finance broker earned for arranging the finance.

What happened

In September 2018 Northridge provided Mr L with finance to purchase a used car. The car cost £19,000 and Mr L entered into a hire purchase agreement to finance the full amount. After interest and charges the total amount due was £24,300.16, repayable in 48 monthly instalments of £393.32 followed by an optional final payment of £5,392. Mr L settled the agreement in full in January 2023.

In August 2023 Mr L complained to Northridge saying that they didn't undertake appropriate affordability checks. And he asked if the broker earned commission for arranging the finance. Northridge wrote to Mr L in October 2023 to let him know it was taking longer than expected to respond to his complaint and informed him of his right to refer his complaint to our service. Mr L contacted us in January 2024.

Northridge responded to Mr L's complaint in May 2024. In their view they carried out reasonable checks before entering into the agreement with Mr L. They added that the existence of commission was disclosed at the point of sale.

One of our investigators considered the complaint. She didn't think Northridge's checks had been proportionate, and in her view proportionate checks would have shown that the agreement wasn't affordable for Mr L. For this reason, she thought the complaint should be upheld. Mr L agreed with our investigator's view, but Northridge didn't.

In summary, Northridge said it disagreed because:

- It isn't standard practice in the industry to ask for bank statements or to verify income and analyse affordability in the way the investigator did.
- Mr L could have let the broker, the car dealership or Northridge know the lending wasn't affordable.
- The income the investigator used in her calculation was significantly different from the income Mr L declared.
- They had no contact from Mr L to express concerns about affordability or ask for help. While they agreed a three-month payment break during Covid-19, many customers made use of this support.

Our investigator considered what Northridge said, but ultimately it didn't change her view that the complaint should be upheld. As no agreement could be reached the case has come to me for a decision.

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.

Having done so, I'm upholding Mr L's complaint. The figures I've arrived at for Mr L's income and expenditure are slightly different to that of our investigator. But this doesn't change the overall outcome, and so I didn't consider it necessary to issue a provisional decision.

The Financial Conduct Authority (FCA) sets out in a part of its handbook known as CONC what lenders must do when deciding whether to lend to a consumer. In summary, a firm must consider a customer's ability to make repayments under the agreement without having to borrow further to meet repayments or default on other obligations, and without the repayments having a significant adverse impact on the customer's financial situation.

CONC says a firm must carry out checks which are proportionate to the individual circumstances of each case. What's proportionate depends on the specific circumstances of each application. I'd expect a lender to think about the nature of the credit (the amount repayable and the term, for example) and about the applicant's individual circumstances. I'd expect a lender to find out more about a prospective borrower's ability to repay if for example, a borrower's income was low, the amount lent was high, or the borrower's credit file reveals an impaired credit history.

Were Northridge's checks proportionate?

Northridge provided us with details of Mr L's application. Mr L declared he was in full-time employment and had a gross annual income of £36,250, equating to around £2,300 a month net. Northridge also checked Mr L's credit report. This showed Mr L held two credit cards with an overall credit limit of £9,700. It appears one card had no outstanding balance, while the other one was close to the agreed credit limit, with a credit utilisation of around 95%.

The credit check also showed a mortgage which Mr L held jointly with his wife, with monthly payments of £661, a loan with repayments of £275 per month and a remaining term of around 41 months, and a fixed term loan account with repayments of £49 per month. Northridge's credit check showed that Mr L had missed the last two payments on the fixed term loan account, so he was in arrears.

CONC 1.3.1(5) says that consecutively failing to meet repayments when due may indicate that a consumer is in financial difficulties. In light of this and given the amount Mr L was asking to borrow, and the substantial monthly repayments he'd be taking on for four years, I'd have expected Northridge to have undertaken thorough checks to satisfy themselves the lending was affordable.

Northridge said Mr L's application was automatically accepted based on the information he provided on his application form and the credit check. CONC 5.2A. 16G says it isn't generally sufficient for a firm to rely solely on a statement made by the customer of their current income. Instead, a firm should obtain some independent evidence. I haven't seen anything to show that Northridge verified Mr L's income.

All things considered, I'm satisfied Northridge didn't carry out reasonable and proportionate affordability checks before lending. I note Northridge's comments about affordability and that Mr L could have let the broker, the dealer or Northridge know if he had concerns about the affordability of the agreement. Crucially though, the regulatory obligation lies with Northridge as the lender to ensure that the lending is affordable – not the consumer.

If Northridge had carried out proportionate checks, what would they have shown?

As set out above, it wasn't enough for Northridge to rely on Mr L's declaration of his income alone – they ought to have verified this in some way. In her assessment of Mr L's income our investigator relied on bank statements, which she said showed Mr L's average monthly income in the three months leading up to his application was around £1,885. She did note an additional salary payment but said this appeared to be a one-off. Northridge said the figure our investigator arrived at was significantly less than what Mr L declared.

On review of the case file, I could see that Mr L had previously described the way his income was structured as being complex. I asked Mr L for more details about this. He explained that when he first took up his role, he was contracted to work 38 hours per week. He said that although additional hours weren't guaranteed, he'd never worked less than 50 hours per week. So, when he was asked for his income as part of the finance application, he looked at the average pay over four months to work out an equivalent annual salary of £36,250.

I think it's likely that Mr L would have given Northridge the same explanation had they asked for income verification. And the bank statements I've seen support what Mr L has said. Overall, I'm satisfied that proportionate checks would have shown Mr L earned around £2,300 net per month and that Northridge could reasonably rely on that figure.

I explained above that a proportionate check would also have involved finding out more about Mr L's committed expenditure. There are different ways a lender can go about checking a prospective borrower's committed expenditure. I can't be sure what Northridge would have done had they decided to conduct further checks, or what Mr L would have told them. In the absence of anything else, I've placed significant weight on the information contained in Mr L's bank statements for the three months leading up to his application as an indication of what would most likely have been disclosed.

Mr L submitted two sets of statements, one for his own account and one for an account he held jointly with his wife. I've carefully reviewed both sets of statements. Mr L's wages were paid into his personal account. He then transferred most of it to the joint account. I could see two regular debits to Mr L's personal account, one being a loan repayment (which I'll address below). The other being daily overdraft interest and fees because Mr L's personal account was consistently overdrawn.

Turning to the joint account, this was also consistently overdrawn, and overdraft fees and interest were applied to it. In the months leading up to Mr L's finance application, direct debits were regularly being returned. This includes payments for council tax, TV licence, insurance premiums and credit commitments.

The joint statements show the total average household expenditure was around £1,376 per month. This includes the mortgage, council tax, water, childcare costs, phone, TV and internet costs, overdraft and account fees, and insurance premiums. The figure excludes groceries, petrol and electricity, which Mr L explained were paid by his wife from her personal account. The figure also excludes oil. Mr L said the oil tank was filled up twice a year, and the cost would vary depending on the price per litre of oil. I haven't seen anything to show how much Mr L paid for oil, so I can't say what figure Northridge should have included in a calculation of Mr L's expenditure.

Northridge's credit check showed Mr L had a revolving credit account with an outstanding balance of £3,782. CONC requires a firm to assume that revolving credit is repaid over a reasonable term. I'm inclined to say Northridge should have used at least 5% of the outstanding amount to reflect that – so around £190. Mr L also had a fixed term loan agreement with monthly payments of £49 and a loan with contractual repayments of around £275. I'd note here that in the two months leading up to Mr L's application the direct debits were returned. The loan payments were successfully made later in those months, albeit for a higher amount of £297. The bank statements I've seen also show two further loans with a combined repayment of around £100 per month. So, Mr L's total credit commitments totalled around £614 per month.

All things considered, had Northridge conducted proportionate checks I think they'd have found Mr L had committed expenditure of around £1,990 per month. Mr L said his wife contributed to the household bills, and I can see from the joint account statements that she transferred an average of £340 per month to the joint account. I think it's likely Mr L would have told Northridge that his wife was contributing to the household bills and so I think Northridge could reasonably include that contribution when considering Mr L's income and expenditure.

Adding the cost of the agreement to Mr L's committed expenditure would see him spending around £2,383 out of an available £2,640 (Mr L's income of £2,300 plus Mrs L's contribution of £340). This would leave him with around £257 to cover the bi-annual oil bill, discretionary and emergency expenditure as well as the cost of owning the car.

Based on the information available to me, I'm satisfied that if Northridge had undertaken proportionate checks, they would have concluded the repayments wouldn't be affordable for Mr L. It follows that they couldn't have fairly decided to lend to him.

Commission

Mr L raised concerns about the commission Northridge might have paid to the finance broker for introducing him to Northridge. I don't think I need to reach a finding about this aspect of Mr L's complaint. This is because I've already found that Northridge shouldn't have entered into this agreement with Mr L as they ought to have realised that it was unaffordable for him. I'm satisfied that my proposed method of putting things right for Mr L, as a result of this, effectively places him in the position he would now be in had his agreement never existed. I think that this also unwinds the impact of any commission that Northridge might have paid to the broker for introducing Mr L.

As this is the case, I don't think there is any need for me to look at the complaint about commission as upholding this part of the complaint wouldn't make a difference to the overall outcome.

Did Northridge act unfairly in any other way?

I've also considered whether Northridge acted unfairly or unreasonably in some other way given what Mr L has complained about, including whether their relationship with Mr L might have been unfair under s.140A Consumer Credit Act 1974.

However, I'm satisfied the redress I have directed below results in fair compensation for Mr L in the circumstances of his complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

Putting things right

As I don't think Northridge ought to have approved the lending, I don't think it's fair for them to be able to charge any interest or charges under the agreement.

Mr L has already paid more than the cash value of the vehicle to Northridge, having settled the agreement in full in January 2023. So, Northridge must do the following to settle Mr L's complaint:

- Calculate how much has been paid in total under the agreement (including any deposits and final settlements).
- Deduct the cash price of the vehicle (being £19,000) from the total paid.
- Pay Mr L the difference, adding 8% simple interest per year* from the date of each overpayment to the date of settlement.
- Remove any adverse information recorded on Mr L's credit file regarding the agreement.

*HM Revenue & Customs requires Northridge to take off tax from this interest. Northridge must give Mr L a certificate showing how much tax they've taken off if Mr L asks for one.

My final decision

For the reasons I've explained, I'm upholding this complaint. N.I.I.B Group Limited trading as Northridge Finance need to settle the complaint as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 16 April 2025.

Anja Gill
Ombudsman