

The complaint

Miss R, who is represented by a third party, complains that Conister Bank Limited ('Conister Bank') irresponsibly granted her a hire purchase agreement she couldn't afford to repay.

What happened

In March 2018, Miss R acquired a used car financed by way of a hire purchase agreement from Conister Bank. The loan was for £8,844 and Miss R was required to make 60 monthly repayments of £273.91, with a final payment of £323.91. The total repayable under the agreement was £16,484.60.

Miss R made ended the agreement by way of a voluntary settlement in November 2020.

Miss R says Conister Bank failed to carry out proper checks to ensure the agreement was affordable for her and that she'd be able to repay it sustainably.

Conister Bank looked into the complaint and said it hadn't done anything wrong in agreeing to provide the finance to Miss R.

Miss R therefore brought her complaint to this service.

Our investigator made a finding that Conister Bank hadn't acted unfairly in approving the finance.

As Miss R and those representing her don't agree, her complaint has been passed to me for a final 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.

We've explained how we handle complaints about unaffordable and irresponsible lending on our website. And I've used this approach to help me decide Miss R's complaint.

On that basis, I'll first look at the checks Conister Bank carried out. I'll then move on to look at what reasonable and proportionate checks would likely have shown.

Did Conister Bank carry out reasonable and proportionate checks to satisfy itself that Miss R would be able to repay the loan in a sustainable way?

When assessing affordability, there isn't a set list of checks that Conister Bank needed to complete. But they needed to be borrower-focused and proportionate to things like the type of lending, the cost of the lending as well as the amount and the period of time over which Miss R would need to make repayments.

When applying for the finance, I've seen that Miss R gave details of her occupation, evidence of income and confirmed her residential status. Her income was based on an hourly rate. Conister Bank worked out that this was equivalent to around £1,200 per month in net pay.

Conister Bank also carried out a credit check that suggested Miss R had received county court judgments in the past, at least one of which hadn't been paid. The report also suggested she'd had two defaulted accounts in the past, the most recent from 2015. Aside from that, the check showed Miss R had four active credit accounts, one of which was an existing finance agreement for a car. The others were a credit card and two loans. The credit cards showed signs that she'd had difficulties making repayments in the past. So I think there's enough to suggest that, before agreeing the finance, it would have been proportionate for Conister Bank to have got a more thorough understanding of Miss R's financial circumstances before agreeing to lend in order to make sure that the new lending was likely to be affordable.

In terms of checking for affordability, I've not seen that Conister Bank looked into how much Miss R had to allow for committed expenditure each month. It therefore didn't know for instance how much she had to find by way of household spending, such as rent and utilities. Given what it had seen about her past financial difficulties, without doing better checks Conister Bank wouldn't have gained a good enough understanding of whether the agreement was affordable or not. I've also kept in mind that Miss R was taking on a long-term financial commitment for five years. Conister Bank therefore needed to have done sufficient to be assured that she could repay it sustainably. I therefore agree with our investigator that it didn't complete proportionate checks.

What would reasonable and proportionate checks more likely or not have shown at the time? And based on that, did Conister Bank make a fair decision to lend?

I next need to consider what Conister Bank might have seen had it carried out better checks than it actually did.

I can't be certain what Miss R would have told Conister Bank had it asked about her committed monthly expenditure. One way of getting an idea about what it might have found out is to look at bank statements from the period leading up to the time she made the application.

The joint bank statements that Miss has provided reflect the income being received by Miss R and her partner. I understand the partner was working to a lesser extent than her, so Miss R was the main wage earner in the household.

I've seen that for the three months leading up to the agreement, Miss R was receiving an average net monthly salary of around £2,000 with a total household income of around £3,100. I think it's reasonable to expect income received jointly to be available to help fund repayments due under the agreement, alongside existing household costs.

Miss R was paying around £3-£400 each month on her existing loans and credit cards, including the car loan she was paying at the time, and which was due to be settled by the dealership when she took out the new agreement. So a more realistic figure would be around £200 per month. Household rent, utilities and other household costs, including food and petrol all worked out to a total of around £1,420 each month. This includes the figure of £120 that Miss R says she was paying each month towards metered gas and electricity.

The overall typical monthly outgoings were therefore likely to be around £1,620. I think this sufficiently demonstrates that the new agreement payment of £323.91 each month looked to

be affordable, leaving Miss R with a good amount of disposable income. I would add that the way the joint account was used doesn't suggest any significant difficulties. Also Miss R and her partner hadn't found it necessary to make use of an overdraft facility.

I've seen that those representing Miss R have suggested that she was over-reliant on short term high-cost loans. I've seen evidence of one of these loans on the bank statements. I can't speculate as to the reason for taking the loan, but based on what I've seen, I can't say that in itself is enough to suggest that her financial position looked to be at risk of deteriorating.

To summarise, I think better checks would have been likely to show that Miss R could afford to repay the new loan on an affordable and sustainable basis. I'm therefore not persuaded that Conister Bank acted unfairly in approving the finance.

It follows that, in the specific circumstances of Miss R's complaint, I am satisfied that the new agreement was affordable. For this reason, I'm not persuaded that Conister Bank acted unfairly in approving the finance.

Did Conister Bank act unfairly or unreasonably in any other way?

I've seen that Miss R contacted Conister Bank during the pandemic. I've seen that Miss R wasn't working regularly due to the impact of the pandemic and being placed on furlough and reduced working hours. This led to her experiencing difficulties with meeting her regular daily outgoings. She was also going through difficult personal circumstances at the time. Conister Bank was able to agree some reduced payments and also agreed two monthly payment holidays.

I think Conister Bank were appropriately supportive of Miss R, once it was aware of her financial and personal situation. So don't think it can be said that it acted unfairly or unreasonably.

It follows that, based on the evidence and information I've seen, I don't consider that Conister Bank's decision to lend to Miss R was unfair.

I've also considered whether the relationship between Miss R and Conister Bank might have been unfair under Section 140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think Conister Bank lent irresponsibly to Miss R or otherwise treated her unfairly. I haven't seen anything to suggest that Section 140A or anything else would, given the facts of this complaint, lead to a different outcome here.

My final decision

For the reasons I've given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 29 April 2025.

Michael Goldberg
Ombudsman