

## **The complaint**

Mr W complains through a representative that Specialist Motor Finance Limited (“SMF”) failed to conduct sufficient checks into his financial position before it lent to him.

## **What happened**

In July 2021, SMF provided with a hire purchase agreement for a used car through a credit intermediary. The car had a retail price of £4,280 and no deposit was paid so the full amount was financed. The agreement had interest, fees and charges totalling £2,712.60 – so Mr W had a total to repay of £6,922.60. This agreement was to be repaid in 59 monthly repayments of £115.21 with a final payment due of £125.21.

The statement of account provided by SMF shows the vehicle was repossessed in February 2022, and since then Mr W has made sporadic payments. As of July 2024, Mr W still owed just under £5,300.

SMF considered Mr W’s complaint and didn’t uphold it. SMF concluded the checks it carried out showed Mr W would be able to afford his repayments. Unhappy with this response, Mr W’s representative referred the complaint to the Financial Ombudsman.

Mr W’s complaint was considered by an investigator, and they didn’t uphold the complaint because they were satisfied SMF had conducted proportionate checks. Mr W’s representative disagreed with the investigator’s findings saying the checks weren’t proportionate. SMF also ought to have verified Mr W’s income – and as such, using estimated outgoings could give a misleading impression of Mr W’s finances.

Mr W’s representatives then went on to say the credit report would’ve showed SMF Mr W had taken five payday loans before the agreement and Mr W’s payment history suggests that he couldn’t afford the finance – given how quickly it defaulted.

These comments didn’t change the investigator’s mind and so the complaint has been passed me to me to decide.

## **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 irresponsible and unaffordable lending on our website. And I’ve used this approach to help me decide Mr W’s complaint. Having carefully thought about everything I’ve been provided with; I’m not upholding Mr W’s complaint. I’d like to 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 W 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.

Mr W gave details of his employer and then declared he earned £1,800 per month. However, SMF didn't simply accept what Mr W had told it and it took steps to electronically verify his income using a tool provided by a credit reference agency. Having carried out this check, SMF could see the income Mr W declared was likely to be accurate. It therefore wasn't unreasonable for SMF to have used this income figure for its affordability check.

SMF then went about calculating Mr W's outgoings using statistical data from the Office of National Statistics. It used a cost-of-living payment of £316.96, car insurance at £70.92, travel of £132, rent of £368.10. To this it also added a buffer of £100.

SMF then took steps to work out his credit commitments and it did this by taking data from the credit search that it conducted – having done so SMF calculated his existing commitments were around £328.96 per month.

After all these deductions from the checked income this left Mr W with just under £500 per month to the loan payment and any other living costs not accounted for.

In addition to using the statistical data, SMF was also aware that Mr W lived at home with his parent(s) and so it may have expected him to not have the regular priority bills that come with either having a mortgage or rent. Based on the results of its checks that the loan appeared affordable.

As I've mentioned above, SMF conducted a credit search before lending, and I've considered whether the results ought to have indicated to SMF that Mr W was having, or was likely to be having, financial difficulties. And or whether the checks indicated SMF needed to make further enquires with Mr W.

Having reviewed what SMF saw, I don't think it would've been overly concerned by what it saw. I've summarised the information below;

- Two loan accounts – with the most recent being opened in January 2021 – these were costing Mr W £109 per month.
- An active communications account with a zero balance
- An existing hire purchase agreement costing £95 per month.
- Three credit cards to which he owed a total of £4,445 and a current account.

Overall, SMF's calculation that his existing commitments were costing around £329 per month seems reasonable.

I can see that Mr W was slightly over his credit limit on one of his cards, but the lender hadn't yet started to report any adverse payment data to the credit reference agency, and he looks like he had a missed payment on another one of his credit cards.

I've thought about this, but given what SMF did before it lent and the there wasn't anything else to suggest financial difficulties, I do think it was just about reasonable for SMF to have provided the finance without looking more closely into Mr W's finances.

I've also considered that Mr W's representative has said SMF ought to have been aware of his use of payday loans. But that information wasn't reflected in the credit check results it received – for example the most recent loan was opened in January 2021. As it didn't know and couldn't reasonably have known about Mr W's use of payday from the credit results that it was entitled to rely on, it couldn't make any allowances for any payday lending Mr W may have had at the time.

I am therefore not upholding Mr W's complaint because SMF carried out proportionate checks that would have showed the finance to be affordable and sustainable for him. This also means I don't think SMF needed to have conducted any further checks before it lent to Mr W.

From the statement of account, it appears Mr W still has a balance due to SMF and so he may wish to contact it to discuss a way forward. I would remind SMF, that if needed, it will treat Mr W fairly.

Finally, I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think SMF lent irresponsibly to Mr W or otherwise treated him 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.

I do not uphold Mr W's complaint.

### **My final decision**

For the reasons I've explained above, I'm not upholding Mr W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 2 May 2025.

Robert Walker  
**Ombudsman**