

The complaint

Mr A complains that BMW Financial Services (GB) Limited, trading as “Alphera” Financial Services, unfairly entered into a hire purchase agreement with him.

What happened

In April 2021, Alphera entered into a hire purchase agreement with Mr A and it provided him with finance for a used car. The cash price of the car was £7,989 and Mr A entered into the agreement for the full amount. The total charge for credit was £1,819.18 and Mr A was required to pay monthly payments of £185.06 over the 53-month term.

In summary, Mr A says he was unable to afford the agreement and if his credit file had been looked into in more detail, it would have shown that he already had lots of other credit and he was using his overdraft a lot. Mr A says he struggled to pay and, as a result, says he had to remortgage his property to pay off the agreement.

Alphera reviewed Mr A’s complaint but didn’t uphold it. In summary, it said its checks showed that the lending was affordable. It also said it asked Mr A about whether he was expecting a change in his financial circumstances – a message highlighted in the explanation document Mr A signed before entering into the agreement.

Mr A remained unhappy and brought his complaint to this service. An Investigator here reviewed matters and, in summary, thought the checks carried out weren’t proportionate, and Alphera should have understood more about Mr A’s income and expenditure. However, he noted that Mr A was making transfers to another account he hadn’t provided statements for. So, based on the information he had, he thought further checks would have revealed the lending was likely to be affordable. So, he didn’t recommend the complaint be upheld.

Mr A disagreed with our Investigator’s opinion and the income and expenditure review that had been completed. In summary, Mr A’s response included that he moved to a different employer during the period his income and expenditure ought to have been reviewed, and so the average should have been taken with those figures in mind rather than his earlier salary. He also pointed out that some committed expenditure wasn’t visible on the statements because he had requested a payment deferral during the COVID-19 pandemic, and he provided statements after the date of the lending decision to show the payments resumed.

Overall, an agreement hasn’t been reached. So, the case has been passed 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.

Having done so, I’m not upholding Mr A’s complaint. Before I explain why, I think it’s important to firstly explain that I’ve read and considered all the information provided by both parties in reaching my decision. If I’ve not reflected something that either party has said,

that's not because I haven't seen it, it's because I didn't deem it relevant to the crux of the complaint. This isn't intended to be a discourtesy to either party. Rather, it reflects my informal role in deciding a fair and reasonable outcome.

The rules and regulations in place at the time Alphera entered into a hire purchase agreement with Mr A required it to carry out a reasonable and proportionate assessment of whether he could afford to repay what he owed in a sustainable manner. This is sometimes referred to as an 'affordability assessment' or 'affordability check'.

The checks had to be 'borrower' focused. This means Alphera had to think about whether repaying the credit sustainably would cause difficulties or adverse consequences for Mr A. In other words, it wasn't enough for Alphera to consider the likelihood of it getting the funds back – it had to consider the impact of any repayments on Mr A.

Checks also had to be 'proportionate' to the specific circumstances of the lending. In general, what constitutes a proportionate affordability check will be dependent on a number of factors including – but not limited to – the particular circumstances of the consumer (e.g. their financial history, current situation and outlook, any indications of vulnerability or financial difficulty) and the amount/type/cost of credit they were seeking. I've kept all of this in mind when thinking about whether Alphera did what it needed to before lending to Mr A.

In its submissions, Alphera said the application was automatically approved and therefore wasn't manually reviewed at any stage. As a result, it says no affordability documentation was looked at. However, it recorded that Mr A was employed full-time. It also carried out a credit check that showed that Mr A was managing all his current commitments well, with no recorded issues.

Whilst the credit check revealed that Mr A was managing all his commitments with no issues, I think Alphera ought to have found out more about his circumstances, including his income and expenditure, before lending to satisfy itself that the agreement was affordable. I say this considering the amount it was proposing to lend him and the duration of the agreement.

However, it's important to explain that just because I don't think Alphera carried out proportionate checks, it doesn't mean that the complaint ought to be upheld. I'd need to be satisfied that proportionate checks would have revealed that the lending was likely to be unaffordable for Mr A. So, I've gone on to consider this next.

I've reviewed the bank statements Mr A has provided for the months leading up to when the lending decision was made. To be clear, I'm not saying Alphera needed to review these statements – I think it needed to understand more about Mr A's circumstances, such as his income and expenditure. But in the absence of these checks being carried out, this is one way to retrospectively piece together what further checks would have likely revealed.

Mr A has provided bank statements which show a salary coming in, some other incoming payments, and some expenditure. The statements also show transfers between Mr A's other accounts. Mr A provided statements for some of these accounts, but didn't provide the statements for one of the accounts, despite being given the opportunity to do so.

I think it reasonable to conclude that this is an account Mr A was using at the time, given the transfers. Without sight of this information, it's difficult to understand exactly what Alphera would have found out had it taken steps to understand more about Mr A's income and expenditure. I say this because I'm not satisfied that I have a full picture of Mr A's financial circumstances from around the time of the lending decision. Being able to obtain that full

picture is crucial to my determination here; without it, I simply don't know what Mr A's overall financial position was at the time.

It's only fair and reasonable for me to uphold a complaint where I can see the credit provided was unaffordable. Whilst I've considered all of Mr A's points, I'm afraid I've not been provided with sufficient evidence to persuade me that further checks into Mr A's circumstances would have prevented Alphera from lending to him. So, in conclusion, and based upon the information I have available, I don't have enough to persuade me that Alphera did something wrong when it lent to Mr A.

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 have enough to persuade me that Alphera lent irresponsibly to Mr A 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.

My final decision

My final decision is that I don't uphold this complaint.

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

Hana Yousef
Ombudsman