DRN-5501889

The complaint

Mr S, who is represented by a third party, complains that First Response Finance Limited ("First Response") irresponsibly agreed to give him finance he says he couldn't afford to repay.

What happened

In March 2018, Mr S acquired a used car financed by a fixed term hire purchase agreement from First Response. Mr S was borrowing £9,000 and paying a deposit of £2,950. Under the terms of the agreement Mr S was required to make 52 monthly repayments of £264.03. The total repayable under the agreement was £16,679.56.

The account was settled in full in September 2020.

Mr S says that First Response didn't complete adequate affordability checks. He says if it had, it would have seen the agreement wasn't affordable.

First Response didn't agree. It said that it carried out a thorough assessment which included a search of Mr S's credit file and checking his income and expenditure.

Our investigator looked into the complaint and didn't recommend the complaint be upheld. He thought First Response could have done some more to look into what Mr S was spending his money on. But ultimately, he thought it hadn't acted unfairly or unreasonably by approving the finance agreement.

As Mr S and those representing him didn't agree, the 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 Mr S's complaint.

Before granting the finance, First Response gathered evidence and information from Mr S about his ability to repay. It established that Mr S was in full time employment and that he lived with his parents and didn't have any financial dependents. It also took steps to verify his income by requesting a copy payslip. This showed an income figure that was lower by around £50 from what Mr S had advised. It then went on to run credit and affordability checks.

The credit check didn't show any recent adverse markings on Mr S's credit file, such as regularly missing payments or having an account go into default. He was up to date with his credit payments. He had credit cards with a combined total credit limit of £400. He also had home credit accounts on which he owed around £1,500. I also see that he'd had four defaults in the past, the most recent being from early 2015. The amounts involved though were relatively low.

In terms of affordability, First Response used statistical information to work out what Mr S was likely to have been spending his income on. It allowed £320 for cost-of-living spending, £100 for household costs and £285 towards credit.

I agree that, given that Mr S was relying on home credit and had defaulted in the past on credit - albeit more than three years before – it would still have been proportionate for First Response to have taken steps to find out more about Mr S's typical monthly spending. Also, First Response was aware that Mr S was earning less than what'd declared in his application. Just because he was living at home, I don't think it could be assumed that he necessarily had a higher level of disposable income. Without knowing what Mr S's regular committed expenditure was, First response wouldn't have got a reasonable understanding of whether the agreement was likely to be affordable or not. It therefore didn't complete proportionate checks.

One of the ways that a business could be able to find out more about and so verify a consumer's typical spending is by reviewing bank statements. In the absence of anything else, and given that it had been provided by those representing Mr S, I looked at four months of statements. These give a fair indication of what First Response would likely have found out had it completed proportionate checks.

Broadly speaking, the statements show that Mr S's regular committed monthly expenditure at the time was around £650. This includes the £100 contribution he made towards household bills and allows for his normal living costs and monthly credit commitments, including a mobile phone contract. His net monthly income worked out to just over £1,500 per month. So that would leave him with around £850 per month by way of disposable income. From that, he'd need to fund the new monthly repayment of £264, which would leave him with just under £600. Based on these figures, I think the agreement was likely to be affordable to Mr S.

I also need to consider the issue of online gambling that is evident from the bank statements. Persistent gambling is of course cause for concern, especially if it leads to a deterioration in financial welfare. The level of gambling over the three months before the agreement was high, involving several hundred pounds a month. This was something Mr S had chosen to do using his disposable income when, during this time, he had sufficient available funds to do so. He wouldn't be able to carry on with online gambling at the same level once approved for the agreement. I haven't seen anything to suggest it became an issue that affected his ability to meet the repayments. Had First Response become aware of it before providing the credit, Mr S would have had to provide a satisfactory assurance that he would not continue gambling to the detriment of his ability to meet the monthly repayments required under the new agreement, as well as his wider financial situation. I think it's very likely that Mr S would have been keen to do that, given his wish to acquire the car.

It follows that, taking all of this into account, I don't think First Response acted unfairly when approving the finance application.

Finally, I've considered whether the relationship between Mr S and First Response might have been unfair under Section140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think First Response lent irresponsibly to Mr S or otherwise treated him unfairly. And 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 given above, I don’t uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr S to accept or reject my decision before 29 May 2025.
Michael Goldberg
Ombudsman