

## **The complaint**

Mr D complains Specialist Motor Finance Limited (SMFL) irresponsibly entered into a car finance agreement because it didn't complete reasonable and proportionate checks to ensure he could afford the repayments.

## **What happened**

Mr D applied for the hire purchase agreement with SMFL in October 2019. The cash price of the vehicle was £5,874. No cash deposit or part exchange was made. The term of the agreement was 60 months. Mr D was to pay 59 monthly instalments of £171.85 with a final instalment of £181.85. The total amount payable under the agreement was £10,321. In October 2020 Mr D contacted SMFL to let it know the car had been stolen. Mr D's insurer partially settled the agreement leaving a shortfall for which Mr D was liable.

Mr D is represented in his complaint but for ease of reading I'll only refer to Mr D throughout this decision. Mr D complained to SMFL on 29 May 2024 about the lending decision being irresponsible. Mr D said he had a County Court Judgment (CCJ) on his credit file. Following the account opening, Mr D had two late payments on a retail credit account, and he had taken out additional borrowing which reflected his dependency on credit. He said it was irresponsible for SMFL to lend to him in the circumstances.

SMFL responded to the complaint on 19 July 2024. It said it offers a hire purchase product designed to meet the needs of customers with fewer lending options available to them. Some previous level of missed payments on credit would not be a reason for it to decline a customer application for credit. It said where there are improvements in credit circumstances and where lending is affordable then individuals should have access to finance that is fit for purpose. It said it used information from a range of sources including from Credit Reference Agencies (CRA) and Office of National Statistics (ONS) and this information showed the lending was affordable.

Our Investigator issued a view explaining why they felt the checks carried out by SMFL had been reasonable and proportionate and that it had made a fair lending decision. Mr D didn't agree and asked for an Ombudsman's decision. Therefore, the complaint 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.

In this case, there are overarching questions that I need to answer to fairly and reasonably decide Mr D's complaint. These questions are:

1. Did SMFL complete reasonable and proportionate checks to satisfy itself Mr D would be able to repay the agreement in a sustainable way?
  - If so, did it make a fair lending decision?

- If not, would reasonable and proportionate checks have shown Mr D would have been able to do so?

2. Did SMFL act unfairly or unreasonably towards Mr D in some other way?

Did SMFL complete reasonable and proportionate checks to satisfy itself Mr D would be able to repay the agreement in a sustainable way?

SMFL explained Mr D declared that he earned £2,250 net monthly income, was 31 years old, single, living with parents and in full time employment. It said it verified Mr D's income using data from a CRA. However, it also received data from a CRA which revealed the application income was 10% higher than the income in the CRA's indebtedness database and so SMFL adjusted the amount to £1,769.

It completed a credit check which showed six active credit accounts. Having reviewed the credit search, I can see this included: a communications account; two current accounts with no overdraft; one current account with an overdraft facility of £500 and a balance of £149 and two unsecured loans with a total balance of £3,953 and a combined monthly repayment of £257. The most recent unsecured loan Mr D had taken out was in April 2019 and some months before the lending. There were no arrears or missed payments. Mr D also had five accounts which had been settled without issue.

There was some adverse information on the credit check as Mr D had four accounts which all seem to have been defaulted more than 12 months prior to the lending. Additionally, Mr D had three CCJs, the most recent of which was recorded in January 2019.

SMFL also went on to estimate Mr D's other non-discretionary spending by using data from the ONS. It estimated Mr D's expenditure as £285.66 for cost of living, £38 for car insurance, £127 for travel, £299.85 for rent and £300.65 for monthly credit commitments. So, it calculated Mr D had disposable income of around £693 (after including a buffer of £25) which it felt was sufficient to afford the repayments. It said it was possible Mr D had little expenditure given he was living at home with parents, but it acted prudently by assuming some expenditure.

I'm satisfied the checks completed were reasonable and proportionate in the circumstances. Whilst Mr D's most recent CCJ had been recorded nine months prior to the lending decision and there were defaults shown on the credit check, the information SMFL obtained suggested his financial circumstances had improved. It verified Mr D's income through CRAs and carried out a credit search which showed the active credit was being managed well. It also estimated his expenditure using ONS data and it seems to have considered likely expenses in its calculations. I've also thought about the size of the monthly repayments, the duration of the agreement and the total amount repayable.

Taking everything into consideration, I think these checks were proportionate and I don't think there was anything in the information SMFL obtained to suggest it ought to have done more.

Did SMFL make a fair lending decision?

Whilst I'm satisfied SMFL carried out reasonable and proportionate checks, this doesn't automatically mean it made a fair lending decision. I need to consider the information it obtained and whether this indicated the lending wasn't affordable for Mr D or that it might worsen his financial situation.

Mr D declared income which was verified. SMFL used an income figure of £1,769 which was less than what was declared. This was based on other information it obtained from the CRA's database. Having considered everything, I'm satisfied it was fair for SMFL to rely on this figure when carrying out the affordability assessment.

As mentioned, SMFL estimated Mr D's expenditure using ONS data. The estimated expenditure was around £1,076. This included estimated costs for car insurance, travel, rent and cost of living as outlined above. It also took into account credit commitments as shown by the credit search. Therefore, SMFL could reasonably understand Mr D had disposable income of around £693 (after including a buffer of £25). I'm satisfied this was enough to indicate Mr D was likely to have been able to sustainably afford the repayments of £171.85.

Additionally, I've thought about Mr D's credit commitments as shown in the credit check completed by SMFL, I don't think there was anything to suggest providing this credit was likely to worsen his financial situation. He did not seem over indebted and, although he'd previously had difficulty including a CCJ nine months prior, he seemed to be managing things at the time of the lending decision.

For these reasons, I'm satisfied SMFL made a fair lending decision. The information showed Mr D was likely to be able to affordably and sustainably make the repayments under the agreement.

*Did SMFL act unfairly or unreasonably towards Mr D in some other way?*

I understand Mr D contacted SMFL in October 2020 to explain his vehicle had been stolen. His insurance paid out a partial settlement towards the agreement in December 2020. SMFL explained Mr D had maintained his payments up until this point. I've checked a copy of Mr D's credit file and SMFL's system notes and it seems this was the case. It doesn't seem Mr D contacted SMFL for support.

Mr D was left with a shortfall to pay of around £740 and discussions were had in December 2020 about how Mr D intended to clear the remaining balance. There were further discussions in January 2021. Mr D's credit file shows the account was defaulted in March 2021. I can see SMFL had made attempts to contact Mr D around this time. Following this, SMFL received confirmation Mr D had entered into an Individual Voluntary Arrangement (IVA) and repayments were made through this.

Considering the account history, I'm unable to conclude SMFL acted unfairly towards Mr D in some other way. Initially the account had been managed well, and it doesn't seem there was anything which ought to have alerted SMFL that Mr D might be struggling. I can see he did struggle to make payments towards the shortfall, at which point SMFL discussed this with him. However, later attempts to contact him became unsuccessful. I'm not persuaded from the circumstances SMFL ought to have done something differently here.

Additionally, I've considered whether the relationship 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 SMFL lent irresponsibly to Mr D or otherwise treated him unfairly in relation to this matter. I haven't seen anything to suggest Section 140A would, given the facts of this complaint, lead to a different outcome.

*Summary*

Overall, I'm satisfied the checks completed by SMFL were reasonable and proportionate in the circumstances. The information it obtained through these checks indicated the agreement was likely to have been sustainable and affordable for Mr D and there wasn't

anything which indicated further lending might worsen Mr D's financial position. The evidence also doesn't persuade me SMFL acted unfairly or unreasonably towards Mr D in some other way. Therefore, I won't be asking it to do anything to resolve this complaint.

### **My final decision**

For the reasons outlined above, I'm not upholding this complaint.

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

Laura Dean  
**Ombudsman**