

## **The complaint**

Mrs H says Blue Motor Finance Ltd ('Blue Motor'), irresponsibly lent to her.

She says that it didn't take reasonable steps to ensure she could afford the repayments towards a hire purchase agreement to purchase a car. She says the finance was completed using incorrect information by the dealership and Blue Motor didn't ask for, or receive, the relevant information about her circumstances.

Mrs H also thinks that Blue Motor didn't help when she had personal and financial problems.

## **What happened**

This complaint is about a hire purchase agreement Mrs H took out to purchase a car in May 2019. The vehicle had a retail price of £11,495 and Mrs H financed all this amount. This agreement was to be repaid through 85 monthly instalments. There was an initial credit acceptance fee of £150, then 83 repayments of £198.05 and a final repayment of £348.05. If Mrs H made the repayments in line with the credit agreement, she would need to repay a total of £16,994.25.

Mrs H complained to Blue Motor saying that it hadn't made appropriate checks before approving the loan. She also thinks that Blue Motor didn't adequately help her through a period of financial, personal, and mental health difficulties.

Blue Motor considered this complaint, and it didn't uphold it. It said thought it'd done adequate checks, which showed that Mrs H could afford the lending. Mrs H didn't agree with this and brought her complaint to the Financial Ombudsman Service.

I've noted that Blue Motor has started court proceedings against Mrs H to recover the car. This is not proceeding for a period while Mrs H's complaints are being considered.

Our Investigator didn't uphold Mrs H's complaint. They thought Blue Motor didn't do proportionate checks. But if it had made better checks it would still have seen that the loan was affordable. And Blue Motor hadn't acted unreasonably when Mrs H informed it about her personal and financial problems.

Mrs H didn't agree with the Investigator. She said that:

- When the loan was started she was a newly single mother of two on a low income and in receipt of benefits.
- Her income would likely have changed as her children became older.
- Blue Motor didn't ask about her income and expenditure as it should have done.
- Some of her income was rent from her son which was not stable.
- Blue Motor did not treat her personal problems with the care and attention they needed.
- She should have been protected from irresponsible lending when she was vulnerable, and the wider context about her circumstances should have been considered, not just the numbers.

Because Mrs H didn't agree, this matter has been passed to me to make 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.

When someone complains about irresponsible and/or unaffordable lending, there are two overarching questions I need to consider when deciding what's fair and reasonable in all of the circumstances of the complaint. These are:

1. Did Blue Motor complete reasonable and proportionate checks to satisfy itself that Mrs H would be able to repay the credit in a sustainable way?
  - a. if so, did Blue Motor make a fair lending decision?
  - b. if not, would reasonable and proportionate checks have shown that Mrs H could sustainably repay the borrowing?
2. Did Blue Motor act unfairly or unreasonably in some other way?

And, if I determine that Blue Motor didn't act fairly and reasonably when considering Mrs H's application, I'll also consider what I think is a fair way to put things right.

#### Did Blue Motor complete reasonable and proportionate checks to satisfy itself that Mrs H would be able to repay the credit in a sustainable way?

There's no set list for what reasonable and proportionate checks are, but I'd expect lenders to consider things such as the amount, duration, and payments of the finance being applied for, as well as the borrowers' personal circumstances at the time of each application.

Blue Motor has explained that it found out, via the credit broker, that Mrs H was employed and had been working as 'Management Professional' for seven years. She had an annual income of £24,000 per year. I can't see that Blue Motor verified, or checked, Mrs H's income before it approved the loan.

Blue Motor has said it checked Mrs H's credit file and applied a series of calculations that looked for signs of financial stress and to check for affordability. It's said these included looking at the amount of her credit card utilisation, the total number of accounts Mrs H had, how she was using her credit facilities, whether there were multiple recent searches and what her debt-to-income ratio was. It said that there was nothing concerning in her credit file information.

Blue Motor has essentially said that it thinks the lack of concerning information on the credit file, coupled with the relatively modest monthly loan payments against Mrs H's income, make it reasonable to say the loan was likely to be affordable for her.

Blue Motor has outlined the checks and calculations it said it did, but it hasn't been able to fully evidence the checks themselves. It has supplied the information it received about Mrs H and some information from the credit reference agencies. But other than that, it isn't clear how it decided to lend to Mrs H. So, I can't be certain of what it considered before lending.

And even if Blue Motor had further information it says it didn't verify Mrs H's income or ask her, or find out another way, about her ordinary expenditures. Mrs H was committing to pay a reasonable amount over about seven years, which is a long time. So, it should have at the

very least, properly determined what Mrs H's income and expenditure were. To be able to say the loan was sustainably repayable for her.

So, I'm not persuaded that the checks Blue Motor did were reasonable and proportionate. I think Blue Motor could have checked in more detail that this further lending wasn't likely to cause Mrs H a problem.

Would reasonable and proportionate checks have shown that Mrs H would be able to repay the credit in a sustainable way?

I've gone on to consider what Blue Motor would likely have found had reasonable and proportionate checks been carried out.

Mrs H has provided an up-to-date copy of her credit report which shows historic data. And I've seen a copy of the information Blue Motor received from the credit reference agencies.

At the time of the application Mrs H was paying all of her credit without problems and she had had no defaults, county court judgments (CCJs), or individual voluntary arrangements (IVAs) registered against her. So, there's nothing on either of the reports, or the information I have received, that shows me Blue Motor should've declined her application, or that it should've been unduly concerned about her current financial position, based on the information it received from the credit reference agencies.

Mrs H has also provided copies of her bank statements for a few months before the lending. While I wouldn't have expected Blue Motor to have asked Mrs H for copies of these, I'm satisfied that these statements would give a good indication of what Blue Motor would likely have taken into consideration had it asked Mrs H to verify, or provide more information about, her income and committed expenditure during that specific period. And I've looked at these alongside the credit reference data.

Mrs H did have some other credit when she started the car finance and as far as I can see Blue Motor was aware of this. This was, briefly:

- A hire purchase agreement with a balance of £6,210 and a monthly repayment of £163. I understand the new agreement would replace this.
- An unsecured loan with a balance of £8,218 and a monthly repayment of £159.
- A mortgage with a balance of £36,949 and a monthly repayment of £202.
- A credit card with a limit of £5,300 and a balance of £1,715.
- A current account with an overdraft limit of £500 and a balance of £264.
- A utility account with a balance of £452.
- And two communication supplier accounts.

As has been established, Mrs H's income was comprised of her pay and some benefits, and she did receive some regular payments from her family members in the form of rent.

The bank statements show she had money coming in which totalled about £2,800 in the months running up to the start of the lending. I've noted this could fluctuate month on month. So, I think if Blue Motor had made better checks this is broadly what it would have seen.

Our Investigator calculated Mrs H's monthly expenditure and no party to the complaint has said this was materially incorrect. And this calculation including mortgage and housing costs, normal household expenditures such as utilities and food and her childcare costs showed Mrs H's average expenditure at the time she started the finance was about £2,300 a month. Again, I think this is what Blue Motor would have seen if it had made better checks.

Mrs H thinks that some of the payments she received from her family members should not be included in her income. I think it's reasonable to take these payments into account as the family members would also be a reason for some of the expenditures she was incurring. I think it's fair to look at her overall situation in this way.

All of this means that Mrs H would have around £500 left over to pay for the new lending. Based on the information I have. I think it's reasonable to say the disposable income was enough to make the agreed repayments and cover any associated costs with having the car.

Mrs H has said that some of her benefits would reduce due to the age of one of her children. Whilst I can accept this could have been the case. I firstly don't think that Blue Motor was made aware of this, and so it wouldn't have been able to factor it into the checks it did. And I don't think that asking for information about her children and factoring the futures benefits income or cost of them would have been proportionate, given the amount of the loan repayment against her income.

Added to this, I don't think the effect on Mrs H's overall income and expenditure would have been certain. As when her child became older, and she received lower benefits due to this, they may for example become employed and mitigate this. And it's worth noting that Mrs H didn't have any problems repaying the lending until 2022, about three years later. So, I don't think this is a factor that should affect my findings about the affordability of the lending at the time it was granted.

So, I'm satisfied that, had Blue Motor carried out reasonable and proportionate checks, I think that it's likely that it would have found the finance to be affordable.

I can see that Mrs H has some difficulties in her personal life and these have contributed to the problems she had repaying the finance later on. I won't detail what these were here, to protect Mrs H's privacy. But I have looked at everything that she has provided.

Mrs H thinks that Blue Motor should have looked at the 'wider picture' here and not lent to her because of these problems. I've looked at the affordability of the lending above, but what Mrs H is essentially saying here is that, due to her problems, she also lacked the capacity to decide about the lending and Blue Motor should have recognised this and acted accordingly.

But the regulations that refer to this kind of situation are clear in that the assumption should be that a person has the capacity to borrow unless a business is informed otherwise. I think it's established that Mrs H didn't inform Blue Motor about her problems until 2022 at the earliest when she started to have difficulty repaying the finance. So, the starting point is that Blue Motor couldn't have factored Mrs H's personal situation into its lending decision as it wasn't aware of it.

Added to this, even if further information was available to Blue Motor, it would have to exercise care in how it used this information. In this case Mrs H was buying a car she clearly wanted at the time, and I understand still has a use for. So, she has a need for transport that the car met. If Blue Motor didn't approve the lending she wouldn't have access to this transport, and this is likely to have caused her other, albeit different, problems and expenses.

And it's worth reiterating here, that the checks it did, and what proportionate checks would have shown, was that Mrs H was employed, with a reasonable income, and she had a good track record of paying her credit which included a similar hire purchase arrangement. The loan repayments looked affordable.

I'm not persuaded that, even if Blue Motor did have further information about Mrs H's personal situation, that it would have been right not to lend.

I'm sure Mrs H will not agree with what I've said here, and I can see she feels very strongly about this. I'm sorry if my findings cause her distress, they are not intended to do this or disregard her situation, I hope this is clear. And I hope she understands that I have considered the wider issues.

#### Did Blue Motor act unfairly or unreasonably in some other way?

Mrs H has raised some issues about a data subject access request, and I understand this process is ongoing. Mrs H should make a complaint to the Blue Motor if this is not resolved how she wants it to be before we can consider it here.

Mrs H thinks the dealership has provided incorrect information to Blue Motor. I have considered the information Blue Motor made its lending decision on above. But if Mrs H has any concerns about how the dealership acted in this respect she does need to complaint to the dealership itself about this.

Mrs H has raised some concerns about how Blue Motor acted when she had problems repaying the finance. Again, I have looked at everything provided about this, and I won't go into a lot of detail to protect Mrs H's privacy.

Mrs H informed Blue Motor about her problems in more detail in 2023, and I think it did take steps to help her. For example, it agreed not to send letters to her after this point. But I can see that Blue Motor did have problems contacting Mrs H a lot of the time. And due to this lack of contact the agreement was eventually sent to a third party collection organisation. But it does seem fair to say that Blue Motor did try to assist where it could and so it didn't act unreasonably in how it treated Mrs H.

I've also considered whether Blue Motor acted unfairly or unreasonably in any other way and I have 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 it lent irresponsibly to Mrs H or otherwise treated her 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 haven't seen anything to make me think Blue Motor acted unfairly or unreasonably in some other way.

#### **My final decision**

For the reasons set out above, I don't uphold Mrs H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 14 July 2025.

Andy Burlinson

**Ombudsman**