DRN-5669200

Complaint

Miss K complains that First Response Finance Limited ("First Response") unfairly entered into a hire-purchase agreement with her. She's said the monthly payments to the agreement were unaffordable and so she shouldn't have been accepted for it.

Background

In May 2021, First Response provided Miss K with finance for a used car. The cash price of the vehicle was £6,595.00. Miss K paid a deposit of £500 and applied for finance to cover the remaining £6,095.00 she required.

First Response accepted her application and entered into a hire purchase agreement with her. The hire purchase agreement had a term of 36 months, interest, fees and total charges of £2,797.72 and the balance to be repaid of £8,892.72 (which does not include Miss K's deposit) was due to be repaid in 36 monthly instalments of £247.02.

Miss K's complaint was considered by one of our investigators. She didn't think that First Response had done anything wrong or treated Miss K unfairly. So she didn't recommend that Miss K's complaint should be upheld.

Miss K disagreed with our investigator and the complaint was passed to an ombudsman for a final decision.

My findings

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 Miss K's complaint.

Having carefully thought about everything I've been provided with, I'm not upholding Miss K's complaint. I'd like to explain why in a little more detail.

First Response needed to make sure that it didn't lend irresponsibly. In practice, what this means is that First Response needed to carry out proportionate checks to be able to understand whether Miss K could make her payments in a sustainable manner before agreeing to lend to her. And if the checks First Response carried out weren't sufficient, I then need to consider what reasonable and proportionate checks are likely to have shown.

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.

First Response says it agreed to this application after it completed an income and expenditure assessment on Miss K. During this assessment, Miss K provided details of her income and employment details. First Response verified Miss K's declaration of income with payslips.

It says it also carried out credit searches on Miss K which showed that she did have active commitments, which it says were being well maintained. However, it was also aware that Miss K had previously defaulted on a credit agreement although as this was around three years prior to this application, it considered this to be historic.

As I understand it, First Response argues that when the amount Miss K already owed plus a reasonable amount for Miss K's living expenses, based on statistical data, were deducted from her monthly income the monthly payments were still affordable. On the other hand, Miss K says that these payments were unaffordable.

I've thought about what Miss K and First Response have said.

The first thing for me to say is that First Response didn't simply accept Miss K's declarations at face value as it carried out credit checks. And given what First Response saw on the credit check suggests that Miss K was managing the active credit she had well and she said that she was living at home with parents, it's arguable that it was reasonable for First Response to rely on an estimate of Miss K's living costs, rather than finding out more about what they actually were.

In any event, I think that it's unlikely First Response carrying out further checks is would have made a difference here. I say this because Miss K allowed First Response open banking access to her main bank account. Having looked at the bank account transaction data it appears to show that when her committed regular living expenses and existing credit commitments were deducted from the amount of her anticipated monthly income, she did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

I've noted that Miss K has said that her salary should have been viewed over 12 months rather than by the payslips she provided. However, it's worth noting that Miss K declared a higher amount and provided payslips to support her declaration. Furthermore, the transaction data appears to show that Miss K wasn't with the same employer for the full 12 months prior to this application.

It looks like she started being paid by her employer at the time of this application around 10 months or so prior to her application for this credit. Equally, when a monthly average is used over this period, which there was no requirement for First Response to use given Miss K's declaration and what the payslips provided showed, in any event the monthly payments appear to be affordable for Miss K.

So having carefully considered everything, I'm satisfied that the available information makes it appear, at least, as though proportionate checks would have shown that Miss K could make the monthly payments to this agreement in a sustainable manner. And in my view, it is unlikely – and less likely than not – that First Response would have declined to lend if it had more closely scrutinised Miss K's open bank transactions to take account of her actual committed living expenses.

Overall and having carefully considered everything, I accept that there may be an argument for saying that First Response's checks before entering into this hire-purchase agreement with Miss K did not go far enough. However, I've not been persuaded that First Response applying more scrutiny to the bank account transaction data Miss K allowed it to have access to, would have prevented it from providing these funds, or entering into this agreement with her.

In reaching these conclusions I've also considered whether the lending relationship between First Response and Miss K might have been unfair to Miss K under section 140A of the Consumer Credit Act 1974.

However, for the reasons I've explained, I don't think First Response irresponsibly lent to Miss K or otherwise treated her unfairly in relation to this matter. And I haven't seen anything to suggest that section 140A CCA or anything else would, given the facts of this complaint, lead to a different outcome here. So I'm not upholding this complaint.

I appreciate that this will be very disappointing for Miss K. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

My final decision

My final decision is that I'm not upholding Miss K's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 23 September 2025.

Jeshen Narayanan
Ombudsman