The complaint

Mr B, who is represented by a third party, complains that Specialist Motor Finance Limited ("SMFL") irresponsibly granted him a hire purchase agreement he couldn't afford to repay.

What happened

In November 2019, Mr B acquired a used car financed by a hire purchase agreement from SMFL. He borrowed £8,437 to pay for the car and was required to make 59 monthly repayments of £235.05 followed by a final repayment of £245.05. The total repayable under the agreement was £14,113.

Mr B says that SMFL didn't complete adequate affordability checks. He says if it had, it would have seen the agreement wasn't affordable. SMFL didn't agree. It said that it carried out adequate checks to assess the affordability of the loan and that from the information it they reviewed the loan was affordable.

Our investigator recommended the complaint be upheld. He thought that the evidence and information SMFL had available to it at the time Mr B applied was enough to show that the agreement was likely to be unaffordable.

SMFL disagrees with our investigator's finding. Essentially, it says it carried out proportionate checks and no further checks were required.

The complaint has therefore 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 B's complaint.

SMFL relied on what Mr B put in his application, saying that he was married and in full-time employment, receiving an annual income that worked out at a net monthly wage of around £2,200.

SMFL also carried out a credit check to establish what credit commitments Mr B already had. SMFL lends to customers who might have fewer lending options available to them and who might be regarded by other lenders as a higher lending risk. So it says it uses its checks with these issues in mind. But SMFL still had a responsibility to carry out checks that went far enough to establish that the borrowing was likely to be affordable as well as being something that could be repaid sustainably. This was after all a five-year agreement that represented a significant financial commitment for Mr B.

I've seen a summary of SMFL's check results, showing that Mr B had eight active credit accounts, of which one – a loan – was showing a recent missed payment. He was also in a payment arrangement for two credit or store cards, which means it was likely he was having difficulties with maintaining payments on these cards. In terms of what he had to find each month, he was making repayments that worked out at around £626 per month. I see he'd also had three defaulted credit accounts in the past, the most recent of which was from just over two years before. I appreciate that SMFL could also see from Mr B's credit history that his payment history included previous loans that had been paid off without any issues – but circumstances can easily change.

SMFL has explained that it verified Mr B's income by using an external data source to assess whether it had been overstated. I can understand that this would have provided a measure of reassurance to SMFL. But that's something that needs to be considered in the context of Mr B's wider financial situation, including what it could see about his historical defaults alongside the current issues with maintaining payments to credit.

Similarly, I've seen that SMFL calculated Mr B's expenditure using statistical data in order to work out what his monthly spending commitments were likely to be, based on indicators like his age and where he lived. The regulator allows firms like SMFL to use such data unless something shows or suggests that the estimated figures might be inaccurate.

Based on what it found, SMFL thought Mr B would have sufficient disposable income – of just over £700 – to be able to afford the new repayment alongside his existing committed expenditure.

Having considered all of this, I agree with our investigator that there was enough to show that Mr B's financial circumstances were likely to be at risk at this point. Having a loan he was behind with and payment arrangements on two credit cards flags up a potential affordability issue that warrants further checks – which didn't happen. I do think it would have been reasonable and proportionate for SMFL to have taken steps to better understand Mr B's specific financial circumstances, rather than relying on income verification and a statistical estimate. The new borrowing was a major financial commitment for Mr B that he would need to repay over a five-year period on a sustainable basis. As things stood, I don't consider there was enough evidence or information from what the checks it carried out showed to make it seem likely that the new loan was affordable.

I'd like to add here that, having noted that Mr B already had an active hire purchase agreement that was costing him £323 per month, it ought to have established that this was due to be paid off before the new one started, rather than just assume this would happen. Had it done so, it would have discovered that the agreement was taken out just over a year earlier and had nearly another four years to run.

Also, Mr B's wife, who would be sharing the household outgoings, was working on a part-time basis and so earning much less than Mr B, leaving him responsible for a much larger share of household income to manage. Again, had SMFL taken the time to find out more about their household finances, this would have been apparent.

It follows that it would have been proportionate for SMFL to have got a more thorough understanding of Mr B's overall income, as well as his financial circumstances, before lending.

I agree with our investigator that there was enough to show that Mr B was already having financial difficulties which would be very likely to get worse with the addition of another substantial monthly repayment which would have a real impact on his household income. Had SMFL taken proper note of what its checks showed, it could have decided at that point not to lend or at least to have taken steps to find out more about Mr B's wider financial situation. It therefore didn't act fairly by approving the finance.

I’ve considered whether the relationship between Mr B and SMFL might have been unfair under S.140A of the Consumer Credit Act 1974. However, I’m satisfied the redress I have directed should be carried out for him results in fair compensation in the circumstances of his complaint. I’m satisfied, based on what I’ve seen, that no additional award would be appropriate in this case.

Putting things right – what SMFL needs to do

As I don’t think SMFL ought to have approved the lending, I don’t think it’s fair for it to be able to charge any interest or charges under the agreement. Mr B should therefore only have to pay the original cash price of the car, being £8,437. Anything Mr B has paid in excess of that amount should be refunded as an overpayment.

To settle Mr B’s complaint SMFL should do the following:

- Refund any payments Mr B has made in excess of £8,437, representing the original cash price of the car. It should add 8% simple interest per year* from the date of each overpayment to the date of settlement.

- Remove any adverse information recorded on Mr B’s credit file regarding the agreement.

*HM Revenue & Customs requires SMFL to take off tax from this interest. SMFL must give Mr B a certificate showing how much tax it’s taken off if he asks for one.

My final decision

I uphold this complaint and direct Specialist Motor Finance Limited to put things right in the manner set out above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr B to accept or reject my decision before 27 October 2025.
Michael Goldberg
Ombudsman