

The complaint

Mr S complains that Specialist Motor Finance Limited ("SMF") unfairly entered into a hire purchase agreement with him.

Mr S is supported in bringing this matter by a representative. But, for ease, I'll refer to actions and submissions as being those of Mr S himself.

What happened

In August 2019, Mr S applied to enter into a hire purchase agreement with SMF over a term of 60 months. The amount he borrowed for the car was £8,998 which covered the cash price of the car. The interest payable was £7,305.20 and there was an option to purchase fee of £10. Mr S was required to make 59 monthly payments of £271.72 followed by a final payment of £281.72, which included the option to purchase fee.

In summary, Mr S says SMF didn't undertake an appropriate assessment of his circumstances, which resulted in financial hardship for him. SMF reviewed matters. In summary, and in relation to this complaint, it said it carried out adequate checks which showed the loan was affordable for Mr S.

An Investigator here reviewed matters but didn't recommend the complaint be upheld. He thought SMF ought to have understood more about Mr S's circumstances before lending, but doing so would have revealed the lending was likely to be affordable.

Mr S disagreed with the opinion. In summary, he said his bank statements showed he was consistently overdrawn; there were returned direct debits; there was regular gambling activity; he was using the full limit on a credit card; he held payday loans and a guarantor loan; and he was reliant on others to clear debts.

Overall, an agreement hasn't been reached. So, the case 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.

As well as complaining that the credit was irresponsibly lent to him, Mr S has also raised a complaint related to the disclosure of commission and the impact this had on him. However, this is the subject of a separate complaint with this service, and I've not considered the commission element of Mr S's complaint as part of this decision.

The rules and regulations in place at the time SMF entered into a hire purchase agreement with Mr S required it to carry out a reasonable and proportionate assessment of whether he could afford to repay what he owed in a sustainable manner. This is sometimes referred to as an 'affordability assessment' or 'affordability check'.

The checks had to be 'borrower' focused. This means SMF had to think about whether repaying the credit sustainably would cause difficulties or adverse consequences for Mr S. In other words, it wasn't enough for SMF to consider the likelihood of it getting the funds back – it had to consider the impact of any repayments on Mr S.

Checks also had to be 'proportionate' to the specific circumstances of the lending. In general, what constitutes a proportionate affordability check will be dependent on a number of factors including – but not limited to – the particular circumstances of the consumer (e.g. their financial history, current situation and outlook, any indications of vulnerability or financial difficulty) and the amount/type/cost of credit they were seeking. I've kept all of this in mind when thinking about whether SMF did what it needed to before lending to Mr S.

SMF recorded Mr S's income as £1,600, which I've understood to be a monthly figure; it said it verified this using an external source. It also recorded that Mr S was living with his parents at the time of the lending decision. It used external sources to understand what Mr S was paying towards credit commitments and to also estimate his non-discretionary expenditure including his living costs. Having done so, it thought the lending was affordable for Mr S.

SMF also carried out a credit check which showed there were some recently recorded issues managing the credit, though these appear to have been rectified by the time the check was carried out. One account appeared to be slightly over the limit. And, there was also an account which had defaulted around two years earlier.

Considering how much SMF was proposing to lend Mr S, and taking into account what the credit check revealed, I think it ought to have understood more about his actual committed non-discretionary living expenses, rather than rely on estimations, to understand whether the lending was likely to be affordable for him.

I've reviewed the bank statements Mr S has provided from around the time of the lending decision to understand what further checks would have likely revealed had they been carried out. To be clear, I'm not saying SMF needed to review bank statements, as it could have understood more about Mr S's committed non-discretionary living expenses in a variety of ways. However, this is an easy way for this service to retrospectively piece together what SMF likely would've understood. Having done so, I agree with our Investigator that, based on the available information, further checks would have likely revealed that Mr S had sufficient disposable income, and the agreement was likely to be affordable for him. So, I don't think SMF acted unfairly by entering into the agreement with Mr S.

I've considered what Mr S told us about his circumstances that would have been visible on his bank statements, including his overdraft usage, reliance on funds from others, returned direct debits and gambling transactions. However, as outlined above, whilst reviewing the statements is an easy way for this service to piece together what further checks would have likely shown, I don't think SMF needed to review Mr S's bank statements. It could have understood more about his committed non-discretionary living expenses in a variety of ways. So, whilst I acknowledge the difficulties Mr S was facing at the time, I'm not persuaded SMF would have been aware of these issues if it had carried out proportionate checks; this isn't a failing on the part of SMF.

I've also considered that Mr S says he was using credit at the time, including payday and guarantor loans. However, I can't see that SMF's checks revealed this information. And, in the circumstances of this case, I'm not persuaded that this alone would mean that SMF simply shouldn't have lent to Mr S. I've considered the checks SMF carried out, including into Mr S's credit history, and what they revealed and already found that SMF ought to have completed further checks into Mr S's committed non-discretionary living expenses to ensure

the lending was affordable for him. And, having done so, I think it's likely that it still would have lent to Mr S.

Therefore, overall, I don't find that SMF acted unfairly by entering into this agreement with Mr S. I've also 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 SMF lent irresponsibly to Mr S or otherwise treated him 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.

My final decision

My final decision is that 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 20 October 2025.

Hana Yousef
Ombudsman