

Complaint

Mr H complains that BMW Financial Services (GB) Limited (trading as MINI Financial Services ("MINI FS")) unfairly entered into a hire purchase agreement with him. He's said that the monthly payments to this agreement were unaffordable and so his application shouldn't have been accepted.

Background

In March 2019, MINI FS provided Mr H with finance for a brand-new car. The purchase price of the vehicle was £35,160.67. Mr H paid a deposit of £0.02¹ and entered into a 48-month personal contract purchase ("PCP") style hire purchase agreement with MINI FS for the remaining £35,160.65.

The loan had interest, fees and charges of £5,748.53 and a 48-month term. This meant that the total amount to be repaid of £40,909.20 was due to be repaid in 47 monthly instalments of £569.18 followed by a final payment of £14,157.72 which Mr H had to make if he wished to keep the car. In September 2022, Mr H settled the agreement early.

In December 2024, Mr H complained to MINI FS saying that the finance was unaffordable and so it should never have been provided to him. MINI FS didn't uphold Mr H's complaint. In its view, it carried out proportionate checks and these showed that Mr H could afford to make the payments to this agreement. So it considered that it wasn't unreasonable to lend to him in these circumstances. Mr H remained satisfied at MINI FS' response and referred his complaint to our service.

Mr H's complaint was considered by one of our investigators. She didn't think that MINI FS had done anything wrong or treated Mr H unfairly when lending and didn't recommend that Mr H's complaint should be upheld.

Mr H 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 Mr H's complaint.

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

¹ It looks like Mr H paid a total deposit of £1,250.00. However, £1,249.98 went towards paying for optional insurance services and the remaining £0.02 went towards a deposit for the car.

MINI FS needed to make sure that it didn't lend irresponsibly. In practice, what this means is that MINI FS needed to carry out proportionate checks to be able to understand whether any lending was sustainable for Mr H before providing it.

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.

I've kept this in mind in determining Mr H's complaint.

MINI FS says it agreed to this application after Mr H provided details of his employer and his residential status. BMWFS says it also carried out credit searches on Mr H which showed that he didn't have any significant adverse information - such as defaulted accounts or county court judgments ("CCJ") recorded against him. Furthermore, the existing credit that Mr H did have was up-to-date and being well maintained. Indeed, Mr H's existing commitment included an existing MINI FS hire-purchase agreement which had higher monthly payments and was being replaced with this one.

In MINI FS' view, when reasonable repayments to Mr H's existing credit commitments were deducted from what it believed to be his monthly income, Mr H had sufficient funds left over to meet his regular living costs as well as make the monthly payments to this agreement.

On the other hand, Mr H says that these payments were unaffordable and there was no way he was going to be able to maintain them.

I've thought about what Mr H and MINI FS have said.

Having reviewed matters it seems clear to me that while Mr H's agreement may have been manually underwritten, it's clear that the main basis for the application being accepted was because Mr H was replacing an existing agreement. I accept that the existing agreement had higher monthly payments and Mr H was up-to-date with his payments on it.

However, just because Mr H had previously made higher payments it doesn't automatically follow that he could do so for another four years. Equally, I can't see how MINI FS could reasonably have concluded that Mr H could make payments of approaching £600 a month without having some kind of an understanding of his income and his regular living expenses.

As MINI FS has not provided sufficient information to satisfy me that it took any steps to obtain such information, I'm not satisfied that it did complete fair, reasonable and proportionate affordability checks before entering into this hire-purchase agreement with Mr H. So I don't think that the checks MINI FS carried out before Mr H was accepted for this hire-purchase agreement were reasonable and proportionate.

As proportionate checks weren't carried out before this agreement was entered into, I can't say for sure what they would've shown. So I need to decide whether it is more likely than not that a proportionate check would have told MINI FS that it was unfair to enter into this agreement with Mr H on the basis that he wouldn't be able to afford the monthly payments.

Given the amount borrowed, the monthly payments and the length of the agreement, in order for MINI FS' checks to have been proportionate, I think that it would have had to have an understanding of Mr H's income, his payments to existing creditors and his regular living costs. I want to be clear in saying that this isn't the same as saying that MINI FS had to obtain bank statements in order to verify all of this as how it found out about this was down to it.

Having considered everything provided, I'm satisfied that I haven't been provided with clear evidence that shows MINI FS obtaining further information from Mr H would have made a difference on its decision to lend in this instance. Indeed, the anecdotal evidence here actually supports Mr H being in a position where he had sufficient funds to be able to make the required payments.

I say this because there are a number of things in Mr H's income and expenditure assessment which appear to be incorrect as they don't add up. For example, Mr H's calculation suggests that his main salary was £750. However, there are bank statements for an account that show credits for amounts well in excess of this being received.

Furthermore, some of the commitments that are included as Mr H's don't appear on the copy of the full credit report provided. I suspect that the reason for this is because Mr H was a director of a number of limited companies. And it is likely that these were company commitments rather than ones Mr H was personally responsible for. In any event, as MINI FS wouldn't have been aware of these commitments I can't see how it could be expected to have taken account of them.

I also have to keep in mind that Mr H's most recent submissions are being made in support of a claim for compensation. And, at the time at least, Mr H considered it an appropriate time to buy a brand-new car and presumably wanted the car that he had chosen. I therefore think that any explanations Mr H would have provided at the time are more likely to have been with a view to persuading MINI FS to lend to him, rather than highlighting any unaffordability. This is important as having looked at copies of the bank statements Mr H has provided to us now, his January 2019 statement shows him receiving a credit of almost £70,000.00 in January 2019, which is a mere matter of weeks before his application for this finance.

In these circumstances, it is difficult for me to accept that MINI FS would have, or even should have, concluded that Mr H's income was what he's now saying it was, in his income and expenditure assessment, had it seen such a credit entering into his account. This is especially as Mr H wanted the car at this time he is likely to have pointed to this influx of funds and his existing repayment record as evidence of his ability to make the payments to this agreement.

Finally, while I accept that this is not in itself determinative, I do think that it's also worth noting that these monthly payments being affordable for Mr H does appear to be supported by him not only having made all the monthly payments he needed to on time, apart from a pandemic break which was available to all customers, he also settled the agreement early.

What I've seen on Mr H's credit file suggests that he settled this agreement as he replaced it with one that had higher monthly payments, which he's not only been making but declined to make a complaint about. Therefore, it's fair to say that Mr H's repayment history doesn't support the argument that this agreement was unaffordable for him.

In reaching my conclusions, I've also considered whether the lending relationship between MINI FS and Mr H might have been unfair to Mr H under section 140A of the Consumer Credit Act 1974 ("CCA").

However, for the reasons I've explained, I don't think MINI FS irresponsibly lent to Mr H or otherwise treated him unfairly in relation to this matter. 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.

Having considered everything and weighed it up in the round, I don't think that MINI FS accepted an application that was obviously unaffordable at the outset bearing in mind all the circumstances, or that it ought reasonably to have realised would cause significant harm to Mr H. I do think that MINI FS ought to have found out about Mr H's income and his actual committed living expenses. However, I'm satisfied that even if MINI FS had done this, this won't have stopped it from providing these funds, or entering into this hire purchase agreement with Mr H.

As this is the case, I've not been persuaded that MINI FS treated Mr H unfairly when entering into this hire-purchase agreement with him and I'm not upholding this complaint. I appreciate that this will be disappointing for Mr H. But I hope he'll understand the reasons for my decision and at least consider that his concerns have been listened to.

My final decision

My final decision is that I'm not upholding Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 20 October 2025.

Jeshen Narayanan
Ombudsman