

The complaint

Miss T complains that BMW FINANCIAL SERVICES (GB) LIMITED trading as Alphera Financial Services (“Alphera”) approved a vehicle finance agreement for her that she could not afford.

What happened

On 1 March 2022, Miss T wanted to buy a used car and the Alphera finance agreement was to achieve that. The sum Miss T borrowed through the finance agreement was £23,283 (rounded figure) and she was required to repay just over £335 a month for 47 months with a final payment to secure ownership of the car being £7,525 – which was an option for her. The price of the car was £18,700. The statement of account (SOA) shows all payments were made on time. There was an excess mileage clause and the fixed mileage figure was 8,000 each year. The agreement terminated early in February 2025, and Miss T no longer has possession of the vehicle. She was charged an excess mileage fee of a little over £2,326.

After Miss T had complained, Alphera responded and then it was referred to the Financial Ombudsman Service where one of our investigators looked at it all. The complaint was upheld. Miss T accepted the investigator’s first and second view but she raised the fact she was still being asked for the excess mileage charge figure of £2,326 and was marking her credit file negatively.

Alphera disagreed with our investigator’s first view but made an offer to write off the excess mileage fee of £2,326 and amend her credit file. Miss T rejected that offer. The second view reindorsed our investigator’s view. The unresolved complaint was passed to me to decide.

On 14 November 2025 I issued a provisional decision giving reasons why I considered that Alphera did need to do further checks and what I considered it ought to do to put things right.

Both Miss T and Alphera have responded. I will address those points later in the decision. What is set out below is a duplication of my provisional decision for ease of reading.

Other background information

Miss T has brought several complaints to the Financial Ombudsman in 2025 and many relate to cars. Those about motor finance commission I am not dealing with. I have reviewed the other complaints. It seems that Miss T wanted to change her car each year. She has said this in one of her explanatory emails to us on another complaint.

Miss T used the same finance company, Alphera, (and dealership) for a car in August 2019, October 2020, August 2021 and finally March 2022 – the last three purchases being the same make and model. Miss T part exchanged the previous model for the new one each time. In March 2022 Miss T part exchanged two cars for the latest one. The agreement is the one ending *5360.

ALPHERA also expected Miss T to take out fixed sum loan agreements. This last agreement ending *5623 has been described by Alphera as a ‘Settlement loan Balance to Finance’. It was to deal with the shortfall for the finance agreement I am reviewing. That is the subject of a separate complaint and I make no decision on that. I have read the details of it.

What I provisionally decided on 14 November 2025 – 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

irresponsible and unaffordable lending on our website. And I've used this approach to help me decide Miss T's complaint. I am not being asked, or expected, to stand in the shoes of the Alpera assessors when the agreement was approved and act as a lender: I am resolving a complaint about whether the approach taken by it was reasonable and proportionate at the time it was taken.

Alpera needed to make sure that it didn't lend irresponsibly. In practice, what this means is that it needed to carry out proportionate checks to be able to understand whether any lending was sustainable for Miss T 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 – suggesting the lender needed to know more about a prospective borrower's ability to repay.

I have reverted to the specific wording and detail in the Financial Conduct Authority (FCA) Consumer Credit Sourcebook (CONC) Chapter 5 on responsible lending to assist me in relation to Miss T's complaint. I do not set out all of the FCA wording here as Alpera seems to be familiar with those regulations and I refer them to CONC for any detail.

When considering whether creditworthiness assessments were reasonable which is what the FCA require them to be, there are a number of considerations to guide Alpera that the checks were proportionate: CONC 5.2A.20R and those rules and guidance paragraphs which follow it. It was not expected that there was a full financial review of every aspect of Miss T's circumstances for each application. But equally, just relying on Miss T being a previous customer was not enough either.

What Alpera knew and researched into before lending was not detailed as it has said to us that it knew Miss T as she'd been a regular customer for years and had taken several agreements with it. I accept that the credit check it did in March 2022 indicated that she did not have a great deal of outstanding debt (outside the car finance agreements she already had). And it has demonstrated to me that her previous repayment history had been good apart from a short time during the Covid 19 pandemic.

My concern around the circumstances in March 2022 arises from the same set of facts that lead Alpera to say that no further checks were needed. Miss T's history of having taken multiple car finance agreements and at least two side personal loan agreements to mop-up negative equity leads me to think that better checks ought to have been made before lending to Miss T again. This March 2022 finance contract was for a 48 month agreement. Miss T was not a high earner.

Miss T has said she was needing to pay less towards cars. The old monthly combined figure of £304 was the 2021 finance agreement plus a 2021 negative equity agreement. The new plan going forward was going to be £430 monthly combined cost - £335 for the car finance signed in March 2022 plus the new personal loan agreement costing £95 over 48 months. The agreement costing her £95 a month is being dealt with separately.

Submissions surrounding CONC

Alpera has sent submissions surrounding the rules in CONC and it appears to be relying on an exception to the mandatory rule – the exception is in CONC 5.2A.15R. That is only part of the regulatory framework. This rule relates to the income and expenditure assessment. Alpera has used language which suggests it is relying on the exception.

For income the rule is CONC 5.2A.15R '(1) *This rule applies unless:*

(a) the firm can demonstrate that it is obvious in the circumstances of the particular case that the customer is able to make repayments in accordance with CONC 5.2A.12R, so as to make the actions described in (2) to (4) disproportionate; ...

That part of CONC goes on to stipulate in the associated Guidance '*...(1) A firm that proposes to rely on the exception in CONC 5.2A.15R(1)(a) should keep in mind that the burden would be on the firm to demonstrate, if challenged, that the absence of a material*

affordability risk was obvious such as to make the process of determination or estimation of the customer's income disproportionate.'

Similar provisions exist for assessment of the customer's non-discretionary expenditure. Non-discretionary costs are defined as including: '*...payments needed to meet priority debts and other essential living expenses and other expenditure which it is hard to reduce to give a basic quality of life. It also includes payments the customer has a contractual or statutory obligation to make, such as payment obligations arising under a credit agreement or a mortgage contract.'*

I have reviewed the information Alphaera had about Miss T in March 2022 and I am not satisfied that it has achieved that burden of proof to rely on the exception to the rule for either income or for Miss T's complete non-discretionary expenditure. Relying on Miss T's previous repayment record, that she was known to them and she had not much external existing credit was not enough.

To answer another of Alphaera's submissions: I do not consider it fair or reasonable for a lender to add into an individual's income figure the ad-hoc contributions from an estranged husband. These would not be considered as regular enough to be income for the purposes of any creditworthiness assessment carried out before approving a finance agreement with a 48 month term. So, I have not used any additional sums from that source.

What would checks have revealed

As I don't consider that Alphaera carried out the right checks before lending in March 2022, I have calculated that Miss T was not able to afford the new agreement by looking at the committed costs she had using her bank account statements for December 2021, January and February 2022. They have given me the average net pay figure of £1,522 a month, her actual rent figure of £600, her actual committed costs and these all add up to £524.

And when I say 'committed costs' I have stripped out the two sets of the existing (at that time) Alphaera agreement amounts, plus another amount for £178 a month which was going to a different car finance provider which I understand was due to be settled around the same time.

And I have stripped out food costs and any discretionary spend. The items included in the £524 each month are, payments to several sets of credit accounts including a mail order (total typically each month was £140), overdraft interest charges, council tax, utilities including water, mobile, DVLA cost each month which would have been continuing at about the same rate, and insurances. I've included gym membership and mobile phone charges as well as usually they are contractual costs.

Left over to Miss T each month was £398 from which to pay food and the new car finance arrangement of £335 a month plus running costs for the new car. Miss T could not afford this car finance arrangement and buy food to eat. The relatively standard checks required to get the rent and household costs figures plus what her current credit commitment costs were (excluding the existing car finance arrangements) would have led Alphaera to have understood that. I've not included the £95 a month personal loan that Alphaera was expecting her to pay as well. I plan to uphold the complaint.

Points of detail for Miss T to be aware of are:

- Miss T has already brought to us a complaint about her liability for the excess mileage charge and she received a comprehensive letter of opinion on that giving detailed reasons as to why she was liable for that excess mileage charge. So, I do not revisit that. It stands.
- The side agreement *5623 costing her around £95 a month dated March 2022 is being assessed as a separate complaint but obviously I am aware of it as it was signed and committed to at the same time and so has been relevant. But Miss T will receive a separate view on that.
- I have read the clause in the finance agreement on Termination Rights and the halfway figure which would have had to have been paid was stipulated as £11,641.58, plus any other sums payable under the agreement which included the excess mileage charge figure. Recent emails from Alphaera have confirmed that Miss T has paid up to the full figure of £11,641.58. The excess mileage figure of £2,326.25 is still outstanding.

Forbearance and fair treatment

Alphera has accepted that from August 2023 when Miss T informed it that she was having financial difficulties then it did not offer her the support and assistance it ought to have done.

Recently, Alphera offered to write off the excess mileage charge element of £2,326.25 and amend her credit file to remove all late payment markers from her credit file in relation to that part of her complaint. But it made it clear that this write off was to resolve the complaint as a whole. So, I am aware that Alphera has conceded on this point about fair treatment in August 2023 and after that date. But as Miss T has rejected that offer to resolve the complaint by accepting that figure then I have thought about all of this in the round.

Alphera has agreed it did wrong around August 2023 onwards. However, I'd not award any sum amounting to over £2,000 as compensation for this part - that would be excessive and disproportionate. Having considered the whole complaint in the round, I'm satisfied that a modest award of £200 would be appropriate. I plan to make a money award of £200 to Miss T.

What I said in my provisional decision that Alphera should do to put things right.

The agreement ended in February 2025. The recent confirmation and SOA from Alphera says Miss T paid £11,641.58 – the VT halfway figure.

Miss T made use of the credit facility Alphera provided, and she purchased goods and/or services with this. As such, it's only fair that she pays for these. However, as Alphera shouldn't have approved her application, I don't think it's fair that she should pay any interest and charges. So, it should refund these. But Miss T has had use of the car. So, it's fair that Miss T pays for that usage.

I don't think that the monthly repayments of £335.28 are a fair reflection of what fair usage would be. This is because a significant proportion of those repayments went towards repaying interest. There isn't an exact formula for working out what a fair monthly repayment would be to reflect Miss T's usage.

But in deciding what's fair and reasonable I've thought about the amount of interest charged on the agreement, Miss T's likely overall usage of the car and what her costs to stay mobile would likely have been if she didn't have this car. In doing so I think a fair amount Miss T should pay is £250 for each month she's had use of the car up to the point it was returned. I understand that was 33 months. That would be £8,250. Miss T accepted this as our investigator set this out in her view.

Therefore, if it hasn't already done so, Alphera should refund monies to Miss T and my refund calculation is:

- £11,641.58 paid by Miss T less £8,250 fair usage cost = £3,391.58.
- Miss T owes £2,326.25 (excess mileage) which Alphera would be entitled to deduct. But it has remained outstanding up to now.
- Left for Alphera to pay to Miss T is £1,065.33. I've thought about whether any additional 8% should be added but I can't really consider that fair as Miss T has owed money to Alphera up until my decision which finalises this resolution and so has not been out of pocket.
- Alphera needs to amend Miss T's credit file to remove all adverse data relating to the car finance agreement including entries to date.
- A money award payment to Miss T of £200 for distress and inconvenience for the poor assistance provided from August 2023 onwards during the life of the agreement.

This is the end of the duplicated provisional decision and proposed redress.

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.

Miss T responded to my provisional decision to accept the outcome but thinks that £200 is too low a sum for the distress and inconvenience. Miss T thinks £1,500 would be fair. However, I have looked at it all again and in the round I consider that £200 plus the redress relating to the lending decision is a satisfactory and fair sum. This D&I figure remains £200.

Alphera responded at length and I do not list here all its points. I have reviewed all of Alphera's points raised recently and in conjunction with all the evidence and details already received from both parties. And I have concluded as follows – briefly set out here:

- Miss T's former partner's financial contributions are not to be included as income.
- I have not considered Miss T was self-employed. I have used salary figures.
- I've covered all the points surrounding the creditworthiness assessment I considered Alphera ought to have carried out in my provisional decision and I repeat them here.
- The excess mileage figure was invoiced to Miss T when the vehicle was VT. I don't plan to alter that figure and as the amount due from Miss T was calculated at the time of the VT I don't see how Alphera has any grounds to alter that sum.
- Alphera has said it made a loss on the resale of the car overall. That does not persuade me to alter any of the redress figures.
- Our approach to redress is as set out in my provisional decision. The fair usage figure offsets a complete refund due to Miss T. And I have made a particular alteration to our usual approach in that I do not think Alphera should be expected to add 8% to the refund figure I've calculated. I stepped outside our usual approach to be fair and reasonable to Alphera by omitting that.

Putting things right

Therefore, for the same reasons set out in my provisional decision and above, I uphold the complaint. Miss T already has the car. I direct that Alphera refund monies to Miss T and my refund calculation is:

- £11,641.58 was paid by Miss T, less £8,250 fair usage cost = £3,391.58.
- Miss T owes £2,326.25 (excess mileage) which Alphera is entitled to deduct from the £3,391.58. The excess mileage sum has remained outstanding up to now.
- Left for Alphera to pay to Miss T is £1,065.33. I've thought about whether any additional 8% interest should be added to this figure, but I can't really consider that fair to Alphera as Miss T has owed money to it up until my decision which finalises this resolution and so it has not been out of pocket.
- Alphera needs to amend Miss T's credit file to remove all adverse data relating to the car finance agreement including entries to date.
- A money award payment to Miss T of £200 for distress and inconvenience for the poor assistance provided from August 2023 onwards during the life of the agreement.

I've considered whether the relationship between Miss T and Alphera might have been unfair under section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed should be carried out for Miss T results in fair compensation for her in the circumstances of this complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case

My final decision

My final decision is I uphold the complaint and I direct that ALPHERA FINANCIAL SERVICES (GB) LIMITED trading as Alphera Financial Services ("Alphera") does as I have outlined in the 'putting things right' part of the decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 31 December 2025.

Rachael Williams
Ombudsman