

## **The complaint**

Mr W is complaining about BMW Financial Services (GB) Limited trading as Alphera Financial Services (Alphera). He says they were irresponsible in lending to him as the repayments were unaffordable. Mr W's complaint was brought to us by a representative but, for ease, I've written as if we've dealt with him directly throughout.

## **What happened**

In September 2018, Mr W took out a hire purchase agreement with Alphera to finance the purchase of a vehicle. He borrowed £11,995 – the cash price of the vehicle. The agreement required Mr W to make 60 monthly repayments of around £260. Mr W made his repayments on time and settled the agreement early, in July 2019.

Mr W complained to Alphera in June 2024, saying they hadn't done enough to check the agreement was affordable for him, leading to financial hardship, anxiety and distress. Alphera didn't respond to Mr W's complaint, so he brought it to the Financial Ombudsman Service.

One of our investigators looked into Mr W's complaint but didn't think it should be upheld. He said he didn't think Alphera had done proportionate checks – but if they had, they'd have been able to decide the agreement was affordable for Mr W.

Alphera haven't responded to our investigator's view, but Mr W did. In summary, he said at the time Alphera lent to him, his income wasn't stable or reliable, and he had significant existing commitments. He was unable to reach an agreement with our investigator, so the complaint came to me for a decision. I wrote to Mr W explaining why my initial view was that I wouldn't uphold the complaint and allowing him time to provide some additional bank statements if he chose. Mr W replied with further comments, and with the bank statements I requested, and the matter's now ready for a 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.

Having done so, I'm not upholding Mr W's complaint for broadly the same reasons as our investigator – I'll explain below.

The Financial Conduct Authority (FCA) sets out in a part of its handbook known as CONC what lenders must do when deciding whether or not to lend to a consumer. In summary, a firm must consider a customer's ability to make repayments under the agreement without having to borrow further to meet repayments or default on other obligations, and without the repayments having a significant adverse impact on the customer's financial situation.

CONC says a firm must carry out checks which are proportionate to the individual circumstances of each case.

*Did Alphera carry out proportionate checks?*

Alphera said they'd carried out a credit check. In addition, they said Mr W had told them he was working full time as a self-employed director and owned his own home. He didn't tell them what his income was, and they didn't make any attempt to verify his income or estimate his expenditure. The credit check showed Mr W had low utilisation of his credit card limits, at 8%. And it showed his total debt was £14,900. But the documents Alphera provided to us don't give any further information about Mr W's financial circumstances at the time. This was a loan with a term of five years and monthly repayments of over £250. So, I can't say their checks were reasonable and proportionate.

That doesn't necessarily mean I can uphold Mr W's complaint – I need to consider whether they'd have been able to fairly decide to lend to Mr W if they had done enough checks.

*If Alphera had done proportionate checks, what would they have found?*

A reasonable and proportionate check would have involved Alphera finding out more about Mr W's financial circumstances to determine whether he'd be able to make the repayments in a sustainable way.

Mr W has provided a lot of information, in the form of bank statements, credit file information, a brief tax document, and extensive testimony. I've reviewed all of this and consider the following the most relevant points:

- Mr W didn't have regular employment income and says he wasn't working, although Companies House lists him as director of two companies at the time.
- He had a joint account with his wife, and three other current accounts. Most of the household expenditure seemed to go through these accounts.
- The accounts received significant transfers in from two sources. One of these was Mr W's wife's company, and the other, Mr W said, was an account containing income from his wife's rental properties. In addition, I saw some benefit receipts in respect of a family member and some ad-hoc cash receipts.
- Two of the accounts were overdrawn for much of the three-month period leading up to the lending decision. The other two accounts had positive balances, but not enough to offset the total overdrawn balances.
- In July 2018, there was a returned direct debit for a mortgage payment of over £2,000. But this was resolved with a manual payment the next day. I saw no evidence of persistent returned direct debits.

Mr W's main argument is that Alphera should have considered whether the agreement was affordable for him personally, and if they'd done so, they'd have concluded that it wasn't – because he had no income of his own. He said his wife covered all the finances for the household.

However, CONC says that a business can take into account income received by another person or jointly with another person in so far as it's reasonable to expect that income to be available to the customer to make repayments under the agreement. To be clear, this provision in CONC wasn't in place at the time of the lending decision, but it was introduced less than two months later – and I consider it to add clarity to the rules in place prior to that.

I can't say exactly what checks Alphera should have carried out. Given the amount of the monthly repayment required under the agreement, I wouldn't have expected them to review Mr W's bank statements. But I'm satisfied that even if they'd discovered Mr W had no

income of his own, they could have assumed his wife's income would be available to him. That's because this income was already being used to cover the other household expenditure and Mr W's existing credit commitments. And, in the event, it was Mr W's wife who paid off this agreement.

Mr W says his high overdraft usage shows the agreement was unaffordable. And I can see he regularly incurred interest and fees in relation to the overdrafts. Mr W said it wasn't a choice to use his overdraft, and I appreciate his perspective. But his credit utilisation across his credit cards was low, at around 8%, and when he did have a direct debit returned, he was able to correct the issue straight away. If Alphera had carried out a detailed credit file review, they wouldn't have been aware of the returned direct debit, and the relatively high overdraft usage would have been offset by Mr W's low utilisation of other credit, and any difficulties Mr W was having wouldn't have been apparent.

Finally, as our investigator found, a review of Mr W's bank statements suggests that the income into Mr W's bank accounts (excluding the benefits received on behalf of a family member) significantly exceeded his existing commitments and essential living costs, suggesting that if Alphera had carried out an income and expenditure assessment, they'd likely have found that Mr W had access to enough disposable income to make the repayments required for their proposed agreement.

In summary, I'm satisfied that if Alphera had carried out reasonable and proportionate checks they could have reasonably decided to lend to Mr W. So I'm not upholding his complaint.

*Did Alphera act unfairly in any other way?*

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think Alphera lent irresponsibly to Mr W 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**

As I've explained, I'm not upholding Mr W's complaint about BMW Financial Services (GB) Limited trading as Alphera Financial Services.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 18 February 2026.

Clare King  
**Ombudsman**