

Complaint

Mr J complains that BMW Financial Services (GB) Limited (“BMW FS”) unfairly entered into a hire purchase agreement with him. He’s said that the monthly payments to this agreement were unaffordable.

Background

In May 2021, BMW FS provided Mr J with finance for a used car. The purchase price of the vehicle was £19,560.00. Mr J paid a deposit of £831.47 and entered into a 49-month personal contract purchase (“PCP”) style hire purchase agreement with BMW FS for the remaining £18,728.53.

The loan had interest, fees and charges of £2,657.56 and a 49-month term. This meant that the balance to be repaid of £21,386.09 (not including Mr J’s deposit) was due to be repaid in 48 monthly instalments of £276.17 followed by a final payment of £8,129.93 which Mr J had to make if he wished to keep the car. In November 2019, Mr J settled the agreement early.

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

Mr J 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 J’s complaint.

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

BMW FS needed to make sure that it didn’t lend irresponsibly. In practice, what this means is that BMW FS needed to carry out proportionate checks to be able to understand whether any lending was sustainable for Mr J 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 J's complaint.

BMW FS says it agreed to this application after Mr J provided details of his employer and how long he'd been employed for. BMWFS says it also carried out credit searches on Mr J which showed that he didn't have any recent significant adverse information - such as defaulted accounts or county court judgments ("CCJ") recorded against him. And the existing credit that Mr J had, other than his existing hire purchase agreement with BMW FS which was being settled as part of this agreement, was low.

In BMW FS' view, when reasonable repayments to Mr J's existing credit commitments were deducted from what it believed his monthly income to be, Mr J 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 J says that these payments were unaffordable and there was no way he was going to be able to maintain them.

It seems to me that BMW FS relied mainly on the results of its credit search in order to determine that the monthly payments to this agreement were affordable for him. But I can't see what it recorded for Mr J's income or his living costs at the time. So other than the credit search and the fact that Mr J said he was employed, I don't actually know what it was that BMW FS relied upon to reach the conclusion that this agreement was affordable for Mr J.

BMW FS has not provided sufficient information to satisfy me that it did take reasonable steps to understand whether Mr J could afford the monthly payments. So I'm not satisfied that it did complete fair, reasonable and proportionate affordability checks before entering into this agreement with Mr J.

As BMW FS didn't carry out sufficient checks, I've gone on to decide what I think BMW FS is more likely than not to have seen had it obtained further information from Mr J. Bearing in mind, the length of time of the agreement and the monthly payment, I think BMW FS ought to have had an idea of Mr J's regular living expenses and income as well as his credit commitments in order for its checks to have been proportionate.

I've used the information Mr J has now provided in order to ascertain what a proportionate check is more likely than not to have shown. Having considered the information Mr J has provided, I think that it does appear to show that when Mr J's committed regular living expenses are combined with his existing credit commitments, and then deducted from his monthly income, he did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

I also have to consider that Mr J's most recent submissions are being made in support of a claim for compensation and what I need to decide here is what Mr J is likely to have disclosed to BMW FS should it have posed further questions about his financial circumstances.

With this in mind I think that any explanations he would have provided at the time are more likely to have been with a view to persuading BMW FS to lend, rather than highlighting any unaffordability. And, in these circumstances, I think it is unlikely that Mr J would have said that he shouldn't be lent to because he'd continue making credit card payments that were larger than he was obliged to make.

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 J does appear to be supported

by him not only having made all the monthly payments he needed to on time, but he also settled the agreement in full a few months after the start.

The final payment Mr J made also included the optional final payment. It seems to me that Mr J's payment history not only doesn't support his argument that the agreement was unaffordable for him, it actually support the opposite being the case here.

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

However, for the reasons I've explained, I don't think BMW FS irresponsibly lent to Mr J 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.

Overall and having carefully considered everything, while I don't think that BMW FS' checks before entering into this hire-purchase agreement with Mr J did go far enough, I'm satisfied that carrying out reasonable and proportionate checks won't have stopped BMW FS from providing these funds, or entering into this agreement with him. So I'm not upholding this complaint. I appreciate that this will be disappointing for Mr J. But I hope he'll understand the reasons for my decision and he'll at least consider that his concerns have been listened to.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 16 March 2026.

Jeshen Narayanan
Ombudsman