

## The complaint

Miss C and Mr S complain that First Response Finance Limited irresponsibly entered into a hire purchase agreement with them. They say this resulted in the relationship between the parties being unfair.

Miss C and Mr S are supported in bringing this complaint by a representative. But, for ease, I'll refer to Miss C and Mr S throughout.

## What happened

In September 2021, First Response entered into a hire purchase agreement with Miss C and Mr S to provide them with finance for a used car. The cash price of the car was £8,495. Miss C and Mr S paid a cash deposit of £500. The amount of credit taken with First Response was £7,995 and the total charge for credit was £6,062.76. Miss C and Mr S needed to make monthly payments of £292.87 over a term of 48 months.

In summary, Miss C and Mr S say that First Response irresponsibly provided them with credit. They say appropriate checks weren't carried out at the time, and they were experiencing financial difficulties. They are also unhappy with how they were treated when they asked for support with the agreement.

First Response reviewed matters but didn't think it had lent irresponsibly. In summary, it said it completed reasonable and proportionate checks to satisfy itself that the agreement could be repaid sustainably.

Miss C and Mr S remained unhappy and brought their complaint to this service. An Investigator here reviewed matters but didn't recommend the complaint be upheld. In summary, he thought First Response carried out reasonable checks which showed the lending was likely to be affordable.

First Response didn't dispute this position, but Miss C and Mr S did. In summary, they said First Response relied solely on verbal assurance that Mr S's income had stabilised despite being aware Miss C and Mr S had struggled previously due to Mr S's transition to being self-employed. They also thought Miss C and Mr S had declared low figures for their expenditure, and that First Response shouldn't have used external sources to estimate some of the expenditure figures used.

Our Investigator then issued a subsequent opinion addressing concerns about the support First Response provided whilst the agreement was in force. In summary, he thought First Response had offered sufficient forbearance, and so he didn't recommend that this element of the complaint be upheld either. Miss C and Mr S reiterated that they would like a final decision, and so the case was passed to me to decide.

I issued a provisional decision because I was intending to reach a different outcome to our Investigator. I've copied the findings of my provisional decision below, which also forms part of this final decision:

## ***“What I’ve provisionally 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.*

*The rules and regulations in place at the time First Response entered into a hire purchase agreement with Miss C and Mr S required it to carry out a reasonable and proportionate assessment of whether they could afford to repay what they 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 First Response had to think about whether repaying the credit sustainably would cause difficulties or adverse consequences for Miss C and Mr S. In other words, it wasn’t enough for First Response to consider the likelihood of it getting the funds back – it had to consider the impact of any repayments on Miss C and 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 First Response did what it needed to before lending to Miss C and Mr S.*

*Before lending, First Response discussed matters with Miss C and Mr S and understood that their combined monthly income was around £2,304. It says it verified this using bank statements. First Response says it understood more about Miss C and Mr S’s expenditure using figures they’d confirmed about their housing costs, information from their credit files and some estimates using external sources. Overall, it says it calculated that they had a disposable income of around £1,306 which I’ve understood to be a monthly figure. And, after deducting an amount for unexpected costs, it understood that Miss C and Mr S would have a disposable income of around £980.*

*First Response also carried out a credit check which showed some historic defaults on Mr S’s credit file, and some more recent issues with Miss C’s credit file. It says that because of this, it carried out a phone interview with Miss C and Mr S where Miss C explained that the issues had occurred before Mr S had become officially self-employed and their income wasn’t stable at first. However, he now had a steady income.*

*Having thought carefully about the circumstances, I think First Response gathered enough information before lending and so its checks were proportionate. However, I don’t think it properly utilised the information available to it. I say this because it used external sources to estimate some of Miss C and Mr S’s expenditure, despite having access to their bank statements which showed Miss C and Mr S’s actual circumstances. I appreciate First Response said it used the bank statements solely to verify income and identify potential anomalies that allude to existing financial difficulties. Additionally, I can understand that sometimes using external sources to estimate expenditure information will be reasonable. However, considering the fact that First Response already had access to the bank statements, I think it should have used these to understand more about Miss C and Mr S’s circumstances, and actual expenditure.*

*Having reviewed the bank statements, and considering the average income and expenditure in the months leading up to the lending decision, I think First Response ought to have understood that Miss C and Mr S wouldn’t have had much disposable income remaining once repayments would have been taken for the agreement. It’s highly unlikely they would*

have been left with enough for unforeseen emergencies, for example. I say this especially considering that First Response noted they also had dependents. The statements also show payments to a debt collection firm and regular use of a buy-now-pay-later facility. Overall, I don't think First Response lent responsibly here. I'll explain how I intend to direct it to put matters right later in this decision.

I've considered that there were incoming payments from others over the months, and this service asked Miss C and Mr S more about these. As I understand it, these payments were from family and were sometimes to support Miss C and Mr S when they were struggling financially. Having reviewed the information provided, I've not seen anything to persuade me that the incoming payments from family members should be considered as regular income that Miss C and Mr S could use to pay towards essential expenses. Therefore, this doesn't change the opinion I intend to reach.

Miss C and Mr S also complain about how they were treated when they asked for support with the repayments. In the circumstances of this case, I'm already minded to conclude that First Response ought not to have lent to them and I'm satisfied that what I propose to direct First Response to do to put matters right is sufficient remedy of this complaint overall.

As I don't think First Response ought to have approved the lending, I don't think it's fair for it to be able to charge any interest or charges under the agreement. Miss C and Mr S should therefore only have to pay the original cash price of the car, being £8,495. Anything which has been paid in excess of that amount towards the agreement should be refunded as an overpayment.

To settle this complaint First Response should do the following:

- End the agreement with nothing further to pay and transfer ownership of the car to Miss C and Mr S.
- Refund any payments made towards the agreement in excess of £8,495, representing the original cash price of the car. It should add 8% simple interest per year\* from the date of each overpayment to the date of settlement.
- Remove any adverse information recorded on Miss C and Mr S's credit files regarding the agreement.

\*HM Revenue & Customs requires First Response to take off tax from this interest. First Response must give Miss C and Mr S a certificate showing how much tax it has taken off if they ask for one.

I've considered whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed above results in fair compensation for Miss C and Mr S in the circumstances of their complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

### **My provisional decision**

*I'm intending to uphold this complaint and direct First Response Finance Limited to settle things in the way I've outlined above."*

Miss C and Mr S's representative responded to accept the provisional decision. First Response disagreed with the decision. In summary, it said using Office of National Statistics

(ONS) data in affordability assessments is a well-established and widely accepted practice and its calculation evidenced sufficient disposable income. It also said that Miss C and Mr S had an excellent payment history with First Response for the first two and a half years until their circumstances changed.

They also said Miss C and Mr S took out further credit around six months after this loan commenced, which was all well-maintained for around two years before they began to enter default around the same time. So, it thought this additional borrowing after the First Response loan, as well as a change in circumstances, was the cause of the financial difficulties Miss C and Mr S experienced and not its lending 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've reached the same conclusions as I did in my provisional decision, and for the same reasons. However, I'll address the broad points First Response raised following the provisional decision.

First Response has pointed out that ONS data is widely used in affordability assessments. I agree that the use of ONS data can be a proportionate means of understanding more about a prospective borrower's circumstances. However, this will depend on the circumstances of the individual case. Here, First Response already had access to Miss C and Mr S's bank statements which evidenced their actual circumstances. So, I think it ought to have used these to understand more about their financial position, rather than partly relying on statistical data. As outlined in my provisional decision, if it had done so, I think it ought to have understood that the lending was likely to be unsustainable for Miss C and Mr S.

First Response has also said Miss C and Mr S initially maintained the repayments and it thinks it's more likely that their financial difficulties began some time after the loan commenced due to additional borrowing and a change in circumstances. Whilst understanding how the account has been managed can be a useful indicator of whether the borrowing is affordable, this has to be reviewed in the context of all the other available information – importantly, what was visible to First Response at the time it lent and whether there were indications that Miss C and Mr S may struggle to repay the account. And, whilst payments may have been maintained initially, as I understand it, Miss C and Mr S's testimony suggests that the credit negatively impacted what was already a difficult financial situation. They say without support from family, even priority bills wouldn't have been paid.

First Response had an obligation at the time to ensure that any lending was not only affordable but was also sustainable for a prospective borrower. I think it had enough information to show this was unlikely to be the case, and that entering into the agreement with Miss C and Mr S would likely worsen their position. So, whilst it's entirely possible that a change in circumstances and further borrowing exacerbated the difficulties Miss C and Mr S were already facing, this doesn't detract from the fact that I think First Response had enough at the time it lent to show that the agreement was unlikely to be sustainably affordable for Miss C and Mr S.

Therefore, for the reasons outlined in my provisional decision, I don't think First Response ought to have approved the lending.

To settle this complaint First Response should do the following:

- End the agreement with nothing further to pay and transfer ownership of the car to Miss C and Mr S.
- Refund any payments made towards the agreement in excess of £8,495, representing the original cash price of the car. It should add 8% simple interest per year\* from the date of each overpayment to the date of settlement.
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\*HM Revenue & Customs requires First Response to take off tax from this interest. First Response must give Miss C and Mr S a certificate showing how much tax it has taken off if they ask for one.

### **My final decision**

For the reasons I've explained, I uphold this complaint and direct First Response Finance Limited to settle things in the way I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C and Mr S to accept or reject my decision before 11 February 2026.

Hana Yousef  
**Ombudsman**