

The complaint

Miss T complains that BMW FINANCIAL SERVICES (GB) LIMITED trading as Alphera Financial Services, lent to her irresponsibly when they provided her with a personal loan.

What happened

In March 2022 Miss T took out a loan with Alphera for £3,740. The loan was taken alongside a motor HP agreement and was set up in order to settle the outstanding balance owing on some existing motor finance and a linked settlement loan, which had previously taken out to pay off a prior motor finance loan. The loan was repayable over 48 months, at an APR of 10.5%, with monthly repayments of £94.90.

In early 2025 Miss T complained. In summary, she said Alphera had irresponsibly lent to her and that sufficient checks – to ensure her affordability status – hadn't been undertaken.

Alphera didn't uphold the complaint. They said, in summary, that they had carried out checks proportionate to the amount being lent; those checks hadn't revealed any concerns, and on that basis, the loan had been granted. So, they were satisfied they had lent responsibly.

Miss T disagreed; she still thought Alphera were wrong to have lent to her. So, she referred her complaint to this Service for independent review.

An Investigator here considered what had happened; having done so, she thought Alphera were wrong to have lent to Miss T, and recommended they put things right by refunding some of the additional interest repaid as a result of taking out the new agreement, as well as removing negative markers from her credit file. She also said that Alphera should pay 8% simple interest on the refunded amount.

Alphera rejected the findings and made further arguments. These were that Miss T could've taken the finance elsewhere; the new rate was based on Miss T's circumstances at the time and that it's unreasonable for our service to think they would offer the same rate under different circumstances; and that Miss T had no obligation to take the loan. They've also mentioned that Miss T seems to be operating another business, and that the bank statements provided, failed to show an income being received from this business.

So, as no agreement has been reached by the parties, Miss T's complaint has now been passed to me to decide.

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 agree with the findings of our Investigator and for broadly the same reasons. I'll explain why.

The rules and regulations in place at the time Miss T was provided with the loan, required

Alphera to carry out a reasonable and proportionate assessment of whether Miss T could afford to repay what she 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 Alphera had to think about whether repaying the credit sustainably would cause difficulties or adverse consequences for Miss T. In other words, it wasn't enough for Alphera to just consider the likelihood of getting the funds back – they also had to consider the impact of any repayments on Miss T.

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 Alphera did what they needed to before agreeing to provide the above loan.

From the information I've been provided, when Alphera arranged the loan in question, they took into account Miss T's existing repayment history on the previous credit agreements she had held with them. But they provided very little detail around any further checks they carried out to demonstrate the finance was affordable. Instead, they referred us back to their Final Response letter where they stated that the manual checks they carried out showed a low level of indebtedness and that Miss T's credit was up to date.

While Alphera are entitled to consider Miss T's existing repayment history when deciding to lend, this won't always be sufficient, dependant on the amount and term of the borrowing in question, and the customer's specific circumstances. When considering the amount Miss T was borrowing – both with this loan, and the Motor Finance agreement being taken out the same day for £18,700 – I've not seen sufficient evidence to persuade me that Alphera's checks went far enough on this occasion.

As I think Alphera's checks should've gone further, similarly to the investigator, I've looked at Miss T's bank statements leading up to the lending decision, to see what I think Alphera would've found, had their checks gone further.

Looking at the bank statements Miss T has provided, her monthly income was averaging out at a little over £1,500, with monthly rent payments of around £600; and further committed costs of around £520 - after stripping out the existing repayments on the settlement loan and HP agreement that were being consolidated. This left Miss T with around £400 a month in disposable income.

From the £400 remaining, Miss T was now required to pay £94 a month towards this loan, at the same time as entering into a motor finance agreement with monthly repayments of £335. This demonstrates that Miss T's total monthly outgoings would already exceed her income, based on her committed expenditure and the two new agreements being arranged. This is also before any allowances are made for her monthly food bill and any other discretionary spending which would likely fall due. So, I think had Alphera's checks gone further, they would've realised this loan would've been unaffordable for Miss T.

As Miss T already had existing finance with Alphera, of which, the lowest rate applied to that existing finance was at 8.9% APR, I think any redress should take into account, that had Alphera not have provided the new loan, Miss T would have still been left with existing finance owing, where she was paying the lowest rate of 8.9%.

Alphera, in response to the investigators view, have made several arguments, which I will address.

Alphera have argued that Miss T was under no obligation to take out the loan. While it does seem to be the case that Miss T was required to clear any existing agreements with Alphera before entering into a new agreement, it's not clear whether or not Miss T needed to do this with Alphera directly. Alphera have indeed argued that it was not required and that Miss T could've taken the additional finance elsewhere.

If I were to accept Alphera's argument here, that Miss T didn't have to take the loan out with them, I'm still not sure of the relevance of the argument. I say that because Miss T didn't take the finance out elsewhere, she took it out with Alphera. And the regulations in place at the time of the lending, require me to assess whether Alphera carried out proportionate checks to ensure the credit was affordable; it's not to determine whether or not Miss T entered into the agreement responsibly. So Alphera's argument here gives me no reason to depart from the above opinion I've reached.

Alphera has argued also – seemingly in response to the redress set out by the investigator (whereby they recommended Alphera refund the difference between the old rate Miss T had, and the new one being applied) – that it's unreasonable to think that Alphera would offer the same rate as the last when taking out a new loan under different circumstances. They also pointed out that Miss T could have shopped around to get different rates. But I think Alphera have missed the investigator's point here again.

The finding made by the investigator, doesn't seem to suggest that the rate was unfair, or that it should not have been applied to the loan in question, but simply, that the loan itself should not have been provided. As however, part of the new loan was used to settle existing finance, the investigator has rightly recommended that Alphera refund the difference between the two - to try and put Miss T back in the position she would have been (or as close to it as possible) – had the loan not been provided. This is instead of recommending a full refund of the interest and charges due under the loan, which would normally form part of our regular unaffordable lending redress, but would unfairly advantage Miss T in the circumstances.

Turning to Alphera's last point, they have noted that they have carried out some further investigations, which now points to Miss T having been operating a separate business for a number of years. And they've questioned whether Miss T may have been channelling this income elsewhere, as its not evident from her bank statements. So, I've thought about this.

Alphera have provided no supporting evidence to show how they have reached the above conclusion, or any information as to what income they believe Miss T is receiving from this additional business. And even if it were the case that Miss T had another source of income, by Alphera's own admissions, this income wasn't showing on Miss T's bank statements. So even if they had carried out proportionate checks, it seems clear that they would not have discovered this additional income they refer to, and therefore most likely would have reached the same conclusion that I have, that proportionate checks would have demonstrated this loan to be unaffordable. So, their point here doesn't alter my position either I'm afraid.

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

Putting things right

Alphera finance should:

- Calculate the difference between the total interest and charges due under the loan, and what they would have been had the loan been agreed at a rate of 8.9% APR.
- Apply that difference - now owing to Miss T - to the outstanding balance remaining owing on her current loan.
- a) if this results in Miss T now having a credit balance on her loan account, any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement). † Alphera should also remove all adverse information regarding this account from Miss T's credit file, or;
- b) if any capital balance remains outstanding, then Alphera should arrange an affordable and suitable payment plan with Miss T. Once Miss T has cleared the balance, any adverse information in relation to the account should be removed from her credit file.

† HM Revenue & Customs requires Alphera to take off tax from this interest. Alphera must give Miss T a certificate showing how much tax it's taken off if she asks for one.

My final decision

My final decision is that I uphold Miss T's complaint. And I direct BMW FINANCIAL SERVICES (GB) LIMITED trading as Alphera Financial Services to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 27 February 2026.

Brad McIlquham
Ombudsman