

## **Complaint**

Miss K complains that Family Finance Ltd (“Family Finance”) unfairly entered into a hire-purchase agreement with her. She’s effectively said that the payments to the agreement were unaffordable and so it shouldn’t have been provided to her.

## **Background**

In June 2020, Family Finance provided Miss K with finance for a used car. The cash price of the vehicle was £9,499.00. Miss K paid a deposit of £3,500.00 and applied for finance to cover the remaining £5,999.00.

As a result she entered into a 49-month hire-purchase agreement with Family Finance. The loan had interest, fees and total charges of £4,791.59 (comprising of interest of £4,776.59, and an option to purchase fee of £15), and the total amount to be repaid of £10,790.59 (not including Miss K’s deposit) was due to be repaid in 47 monthly instalments of £219.91 and one final payment of £234.91.

When it investigated Miss K’s complaint Family Finance didn’t uphold it. It believed that it carried out proportionate checks and that it was reasonable to lend to Miss K. Miss K remained dissatisfied and referred her complaint to our service.

Miss K’s complaint was considered by one of our investigators. She didn’t think that Family Finance had done anything wrong or treated Miss K unfairly. So she didn’t recommend that Miss K’s complaint should be upheld. Miss K 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 Miss K’s complaint.

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

Family Finance needed to make sure that it didn’t lend irresponsibly. In practice, what this means is that Family Finance needed to carry out proportionate checks to be able to understand whether Miss K could make her payments in a sustainable manner before agreeing to lend to her. And if the checks Family Finance carried out weren’t sufficient, I then need to consider what reasonable and proportionate checks are likely to have shown.

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.

Family Finance says it agreed to this application after it completed an income and expenditure assessment on Miss K. During this assessment, Miss K provided details of her monthly income which was verified against a copy of a payslip which Miss K provided.

Family Finance says it also carried out credit searches on Miss K which showed some previous adverse credit information and outstanding balances. But when the amount Miss K already owed plus what Miss K's declared for her living expenses were deducted from her monthly income the monthly payments were affordable. On the other hand, Miss K says she was already struggling at the time and that these payments were unaffordable.

I've thought about what Miss K and Family Finance have said.

The first thing for me to say is that I don't think that the checks Family Finance carried out did go far enough. Family Finance's searches showed that Miss K had had previous difficulties with credit and a significant number of active accounts.

In my view, while Family Finance says that these circumstances weren't unusual and were in keeping with its customer base, I do still think that it needed to take further steps to verify Miss K's actual living costs, given what the credit search showed in order for its checks to have been proportionate.

As Family Finance did not do this and therefore did not carry out reasonable and proportionate checks, I've gone on to decide what I think Family Finance is more likely than not to have seen had it obtained further information from Miss K. Bearing in mind, the length of time of the agreement and the amount of the monthly payment and what the credit commitments showed, I would have expected Family Finance to have had a reasonable understanding about Miss K's regular living expenses as well as her income and existing credit commitments.

I've considered the information Miss K has provided us with. And having done so, this information does appear to show that when Miss K's committed regular living expenses and existing credit commitments are deducted from the amount she was receiving into her account at the time, she did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

While I don't wish to get into a discussion over what a forensic analysis of what Miss K's bank statements is likely to have shown, given Family Finance was not required to review Miss K's bank statements in the first place, Miss K does appear to have been in receipt of funds from family members.

I appreciate what Miss K has said about her partner's employment and the reasons for her daughter transferring the funds for her deposit. But I can't see how Family Finance could possibly have known about any of this.

In particular, I can't see how Family Finance would know that the proceeds of the deposit, which suggested Miss K had a lump sum equivalent to more than a years' worth of repayments, was effectively a return of funds that she'd temporarily transferred to her daughter after a successful insurance claim.

I'm mindful that it wasn't told about this and it's clear that any explanation Miss K is likely to have provided at the time is more likely to have been geared towards persuading Family Finance to lend to her rather than highlighting any potential unaffordability.

So overall and having carefully considered everything, while I don't think that Family Finance's checks before entering into this hire-purchase agreement with Miss K did go far enough, I'm satisfied that carrying out reasonable and proportionate checks won't have prevented Family Finance from providing these funds, or entering into this agreement with her.

I'm therefore satisfied that Family Finance didn't act unfairly towards Miss K when it agreed to provide the funds and I'm not upholding Miss K's complaint. I appreciate that this will be very disappointing for Miss K. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

Although I'm not upholding Miss K's complaint, I would like to remind Family Finance of its obligation to exercise forbearance and due consideration, now that it has been told more about Miss K's financial position, in the event that Miss K continues having difficulty making her payments going forwards.

### **My final decision**

My final decision is that I'm not upholding Miss K's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 17 June 2024.

Jeshen Narayanan  
**Ombudsman**