

Complaint

Mr J complains that Blue Motor Finance Ltd (“BMF”) unfairly entered into a hire-purchase agreement with him. He’s said that the payments to this agreement were unaffordable and so he should not have been lent to.

Background

In December 2016, BMF provided Mr J with finance for a used car. The purchase price of the vehicle was £3,995.00. Mr J didn’t pay a deposit and entered into a hire-purchase agreement, which had a 48-month term, with BMF for the £3,995.00 he needed to complete his purchase.

The loan had interest and charges of £1,922.60 (which was made up of interest of £1,642.65, a credit acceptance fee (A) of £119.95, a credit acceptance (B) fee of £150 and an option to purchase fee of £10). All of this meant that the total amount to be repaid of £5,917.60 was due to be repaid in 47 monthly instalments of £119.95 followed by a final monthly payment of £269.95.

Mr J complained that the agreement was unaffordable and so should never have been provided to him. BMF didn’t uphold the complaint. It said that its checks confirmed that the finance was affordable and so it was reasonable to lend.

The complaint was considered by one of our investigators. He didn’t think that BMF had done anything wrong or treated Mr J unfairly. So he 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.

BMF needed to make sure that it didn’t lend irresponsibly. In practice, what this means is that BMF 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 when considering the checks that BMF carried out.

BMF says it agreed to this application after Mr J provided details of his monthly income and it carried out credit searches on Mr J, which didn't show any significant adverse information such as defaulted accounts or County Court Judgement ("CCJ") recorded against him. In BMF's view, when reasonable repayments towards the amount Mr J already owed plus a reasonable amount for Mr J's living expenses (based on average data) were deducted from his monthly income the monthly payments for this agreement were still affordable.

On the other hand, Mr J says that the payments were unaffordable and there was no way he was going to be able to maintain them.

I've thought about what Mr J and BMF have said.

In the first instance given the amount of the monthly payment here and the fact that Mr J had a relatively well maintained existing hire-purchase agreement with BMF, there is an argument for saying that the checks in this instance were reasonable and proportionate. However, I am mindful that although he didn't have any significant adverse information recorded against him, Mr J did have quite a bit of existing credit. So I think it would have been prudent for BMF to have found out more about Mr J's regular living expenses.

As BMF should have done more, I've gone on to decide what I think BMF is more likely than not to have seen had it done that here. As previously explained, given the circumstances here, I would have expected BMF to have had a reasonable understanding about Mr J's regular living expenses as well as his income and existing credit commitments.

I've considered the information Mr J has provided. I wish to make it clear that I'm not going to forensically re-underwrite Mr J's application. I say this particularly as Mr J's most recent submissions are being made in support of a claim for compensation and any explanations he would have provided at the time are more likely to have been with a view to persuading BMF to lend, rather than highlighting any unaffordability.

As this is the case, I'm simply going to try and get some idea of what BMF is likely to have found out about Mr J's living expenses had it done proportionate checks. I say this because when the identifiable actual payments Mr J was making towards his living costs, shown on his bank statements, are added to his active credit commitments and then deducted from his income, he, at the time at least, appears to have enough left over to repay this agreement.

I've also seen what's been said about Mr J not having sufficient funds left over to cover all of his costs. It's possible that Mr J was paying more towards his living expense. However, as I can't clearly see this on the bank statements at this point, it's difficult for me to say that BMF would have known about this, particularly as it didn't need to go as far as requesting bank statements in the first place.

Furthermore, I have to keep in mind that the payments to this agreement were only £30 a month more than the payments Mr J was already making to BMF. This is something that BMF was entitled to take into account and based on the evidence presented at this stage, it

is not clear to me that Mr J couldn't afford to make the extra £30 a month he would need to pay.

In these circumstances, I don't think that BMF carrying out further checks is likely to have led it to conclude that when Mr J's regular living expenses and existing credit commitments were deducted from his monthly income, he did not have the funds, at the time at least, to sustainably make the repayments due under this agreement.

Overall and having carefully considered everything, while I'm not persuaded that BMF's checks before entering into this hire-purchase agreement with Mr J did go far enough, I'm satisfied that BMF doing more won't have stopped it from providing these funds, or entering into this agreement with him.

In reaching this conclusion I've also considered whether the lending relationship between BMF 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 BMF irresponsibly lent to Mr J or otherwise treated him unfairly in relation to this matter. And 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. 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 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 12 August 2024.

Jeshen Narayanan
Ombudsman