

Complaint

Mr R complains that Marsh Finance Limited (“Marsh Finance”) unfairly entered into a hire-purchase agreement with him. He’s said that the finance wasn’t affordable for him.

Background

In July 2020, Marsh Finance provided Mr R with finance for a car. The purchase price of the vehicle was £13,570.83. Mr R didn’t pay a deposit and entered into a 60-month hire-purchase agreement with Marsh Finance to fund the entire amount.

The loan had interest, fees and total charges of £7,126.57 (made up of interest of £7,116.47 and an option to purchase fee of £10), and the total amount to be repaid of £20,697.40 was due to be repaid in 59 monthly instalments of £344.79 followed by a final instalment of £354.79.

Mr R’s complaint was considered by one of our investigators. He didn’t think that Marsh Finance had done anything wrong or treated Mr R unfairly. So she didn’t recommend that Mr R’s complaint should be upheld.

Mr R 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 R’s complaint.

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

Marsh Finance needed to make sure that it didn’t lend irresponsibly. In practice, what this means is that Marsh Finance needed to carry out proportionate checks to be able to understand whether any lending was sustainable for Mr R 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.

Marsh Finance says it agreed to this application after Mr R provided details of his monthly income, which was verified by obtaining payslips from Mr R. It says it also carried out credit searches on Mr R which did show some existing debts but these weren't excessive and there was any evidence of any recent difficulties making payments.

In Marsh Finance's view, when the amount owing plus a reasonable amount for Mr R's living expenses were deducted from his monthly income the monthly payments were affordable. On the other hand, Mr R says his existing commitments meant that these payments were unaffordable and there was no way he was going to be able to maintain them.

I've thought about what Mr R and Marsh Finance have said.

The first thing for me to say is that Marsh Finance didn't simply accept Mr R's declarations at face value as it obtained payslips and carried out credit checks. And given what Marsh Finance would have seen on the credit checks suggests that Mr R was managing his existing credit reasonably well, it's arguable that it was reasonable to rely on an estimate of Mr R's living costs, rather than finding out more about what they actually were.

Furthermore, and in any event, I think that it's unlikely Marsh Finance carrying out further checks is would have made a difference here. I say this because the information Mr R has provided doesn't show that Marsh Finance finding out more about his actual living expenses, rather than relying on him having enough left over once his credit commitments were met, would have shown the monthly repayments to be unaffordable.

I accept it's possible that Mr R's actual circumstances at the time might have been worse than what proportionate checks are likely to have shown. For example, I've seen what Mr R has said about a defaulted account in the lead up to this finance application. Bearing in mind the information provided, it's not immediately clear to me that Marsh Finance did know about this.

But even if it did, at best, I'd expect this to have prompted Marsh Finance to find out more about Mr R's living expenses and I've already explained why I don't think that this being done would have made a difference here. Equally, I don't think that a single defaulted account is in itself a decision to automatically decline an application in the way that Mr R now appears to be suggesting.

I'm also mindful that Mr R's arguments now 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 Marsh Finance to lend to him, rather than highlighting any unaffordability.

Overall and having carefully considered everything, while it's arguable that Marsh Finance's checks before entering into this hire purchase agreement went far enough, I'm, in any event, satisfied that carrying out further checks won't have stopped Marsh Finance from providing these funds, or entering into this agreement.

For these reasons, I don't think that Marsh Finance lent irresponsibly to Mr R or otherwise treated him unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A Consumer Credit Act 1974 would, given the facts of this complaint, lead to a different outcome here. And I'm therefore not upholding this complaint.

I appreciate that this will be very disappointing for Mr R. But I hope he'll understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 3 August 2024.

Jeshen Narayanan
Ombudsman