

Complaint

Mr F complains that Startline Motor Finance Limited (“SMF”) unfairly entered into a hire-purchase agreement with him. He’s said that the monthly payments to this agreement were unaffordable given his circumstances at the time.

Background

In September 2018, SMF provided Mr F with finance for a used car. The purchase price of the vehicle was £5,850.00. Mr F paid a deposit of £383 and took out a hire-purchase agreement with SMF for the remaining amount he needed to complete his purchase.

The loan was for £5,467.00 had interest charges of £2,261.96 and a £10 credit facility fee. This meant that the total amount to be repaid of £7,738.96 (not including Mr F’s deposit) was due to be repaid in 47 monthly instalments of £161.01 followed by one final payment of £171.02.

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

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

Having carefully considered everything, I’ve decided not to uphold Mr F’s complaint. I’ll explain why in a little more detail.

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

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

SMF says Mr F declared that he was employed at the time and that he earned around £2,350.00 a month. It says it cross checked Mr F's declaration against information provided by credit reference agencies on the amount of funds going into his main bank account each month. SMF also says that it carried out credit searches on Mr F which had shown Mr F had a single defaulted account recorded against him, which it considered to be historic. Furthermore, it considered that Mr F's active credit commitments were being well paid.

In SMF's view, when the amount owing plus a reasonable amount for Mr F's living expenses were deducted from his monthly income the monthly payments were still affordable. On the other hand, Mr F 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 F and SMF have said.

The first thing for me to say is that, unlike our investigator, I don't think that the checks SMF carried out did go far enough. I don't think it was reasonable to rely on modelled living costs for Mr F, given there was a defaulted account present on the credit search carried out, the amount being borrowed, the cost of the credit and the term of the agreement.

In these circumstances, I think that SMF needed to do more to find out about Mr F's actual living expenses. As I can't see that SMF did this, I don't think that the checks it carried out before providing this finance were reasonable and proportionate.

As SMF didn't carry out sufficient checks, I've gone on to decide what I think SMF is more likely than not to have seen had it obtained further information from Mr F. As I've explained, bearing in mind the circumstances here, I would have expected SMF to have had a reasonable understanding about Mr F's regular living expenses as well as his income and existing credit commitments.

The information Mr F has provided from the time does appear to show that when his discernible committed regular living expenses were added to payments to the credit commitments SMF knew about and then deducted from what he received each month, he did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

In reaching my conclusions, I've thought about what Mr F has said about being responsible for fully paying the rent even though he and his wife were joint tenants, as Mr F's wife was on maternity leave. However, I can't see the rent payments going from Mr F's account. Indeed, the tenancy agreement supplied, appears to be dated after Mr F entered into this hire-purchase agreement – although I do accept that the address listed for Mr F on the hire-purchase agreement is the same as the address on the tenancy provided.

In any event, given Mr F decided to purchase a car at this time and therefore presumably wanted the finance at this stage and the information provided doesn't clearly show me that he was paying £1,200.00 a month in rent, I think it's unlikely that he would have proactively declared that this was what he was paying. This is particularly as Mr F's most recent submissions are being made in support of a claim for compensation and as I've said any explanation at the time are more likely to have been with a view to persuading SMF to lend, rather than highlighting any unaffordability.

It's only fair and reasonable for me to uphold a complaint in circumstances where a lender did something wrong. And I don't think that SMF could possibly be expected to have realised that this agreement might have been unaffordable for Mr F having considered what proportionate checks are likely to have shown.

Overall and having carefully considered everything, while I don't think that SMF's checks before entering into this hire-purchase agreement with Mr F did go far enough, I'm satisfied that carrying out reasonable and proportionate checks won't have stopped SMF from providing these funds, or entering into this agreement.

In reaching this conclusion, I've also considered whether the lending relationship between SMF and Mr F might have been unfair to Mr F under section 140A of the Consumer Credit Act 1974 ("CCA").

However, for the reasons I've explained, I don't think SMF irresponsibly lent to Mr F 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 while I've considered everything that Mr F has said, I don't think that SMF acted unfairly or unreasonably towards him. And I'm not upholding this complaint. I appreciate that this will be disappointing for Mr F. 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 F's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 2 October 2024.

Jeshen Narayanan
Ombudsman