

Complaint

Miss O complains that CA Auto Finance UK LTD (at the time trading as “FCA Automotive” Services UK Ltd) unfairly entered into a hire-purchase agreement with her. She’s said the agreement was unaffordable and so she shouldn’t have been accepted for it.

Miss O has made a separate complaint regarding commission. But we’re looking at that complaint separately and this decision is only looking at FCA Automotive’s decision to lend to Miss O.

Background

In June 2019, FCA Automotive provided Miss O with finance for a used car. The cash price of the vehicle was £12,219.09. Miss O didn’t pay a deposit and entered into a 49-month hire-purchase agreement with FCA Automotive for the entire £12,219.09.

The loan had interest, fees and total charges of £5,119.55 (made up of interest of £4,720.55 and an option to purchase fee of £399) So the total amount to be repaid of £17,338.64 was due to be repaid in 48 monthly instalments of £265.68 followed by an optional final monthly payment of £4,586.00.

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

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

FCA Automotive needed to make sure that it didn’t lend irresponsibly. In practice, what this means is that FCA Automotive needed to carry out proportionate checks to be able to understand whether Miss O could make her payments in a sustainable manner before agreeing to lend to her. And if the checks FCA Automotive 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.

FCA Automotive says it agreed to this application after it completed an income and expenditure assessment on Miss O. During this assessment, Miss O provided details of her monthly income. FCA Automotive says it also carried out credit searches on Miss O which showed no significant adverse difficulties with credit in the form of defaults or County Court Judgments ("CCJ"). Miss O did previously have a missed payment on a mail order account, but it had been brought up to date by the time of borrowing. FCA Automotive also says Miss O had a previous well maintained agreement with it too.

And as I understand it when the amount Miss O already owed plus a reasonable amount for Miss O's living expenses, based on average data, were deducted from her monthly income the monthly payments were still affordable. On the other hand, Miss O says that these payments were unaffordable.

I've thought about what Miss O and FCA Automotive have said.

The first thing for me to say is that I don't think that the checks FCA Automotive carried out did go far enough. In my view, given the monthly payments were taking up a reasonable proportion of Miss O's income, I'm satisfied that FCA Automotive needed to take further steps to get an appreciate of Miss O's actual living costs.

As FCA Automotive didn't carry out sufficient checks, I have gone on to decide what I think FCA Automotive is more likely than not to have seen had it obtained further information from Miss O. Given the circumstances here, I would have expected FCA Automotive to have had a reasonable understanding about Miss O's regular living expenses as well as her income and existing credit commitments (which it already had).

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

Miss O is unhappy her partner's income appears to have been taken into account. But they appear to have been operating joint finances. Both incomes were going into the account statements have been provided for and the bills were being paid from it to. So, in my view, it is unlikely – and less likely than not – that FCA Automotive would have declined to lend if it had seen this information.

Having considered everything, I'm satisfied that the available information makes it appear, at least, as though Miss O had sufficient funds in order for the monthly payments to this agreement to be made in a sustainable manner. I accept that it's possible Miss O's actual circumstances may not be fully reflected in the information provided. For example, I know that Miss O says that she went on to miss payments on her credit card. But FCA Automotive won't have known that this would happen. All I'd expect it to do is fill in the gaps in its assessment, which I have highlighted above.

Overall and having carefully considered everything, while I don't think that FCA Automotive's checks before entering into this hire-purchase agreement with Miss O did go far enough, I've not been persuaded that reasonable and proportionate checks would have prevented FCA Automotive from providing these funds, or entering into this agreement with her.

This means I've not been persuaded that FCA Automotive acted unfairly towards Miss O when it lent to her and I'm not upholding the complaint. I appreciate that this will be very disappointing for Miss O. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss O to accept or reject my decision before 18 December 2023.

Jeshen Narayanan
Ombudsman