

The complaint

Mr T, via a third party, complains that Close Brothers Limited ("Close Brothers") irresponsibly lent to him.

What happened

In June 2019 Mr T entered into an agreement with Close Brothers for a used car costing £12,995. Under the terms of the agreement, everything else being equal, Mr T undertook to pay a deposit of £6,000 followed by 47 monthly payments of £193.99 and 1 monthly payment of £213.99 – making a total repayable of £15,321.52 at an APR of 15.9%.

Mr T says that Close Brothers didn't complete adequate affordability checks. He says if it had, it would have seen the agreement wasn't affordable. Close Brothers didn't agree. It said that *"based on the information and evidence [Mr T] provided at the time and the checks [it] undertook [it] considered that [Mr T] was able to afford the finance and [it] acted reasonably"*.

Mr T's complaint was considered by one of our investigators who came to the view that the checks undertaken by Close Brothers were indeed reasonable and proportionate and it had made a fair and reasonable lending decision.

Mr T didn't agree and so his complaint has been passed to me for review and decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

First, and for the avoidance of any doubt, I would like to make it clear that I'm only considering in this decision Mr T's complaint that Close Brother acted irresponsibly in lending to him, not any other complaint he might have against it.

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 T's complaint.

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

Close Brothers needed to make sure that it didn't lend irresponsibly. In practice, what this means is that Close Brothers needed to carry out proportionate checks to be able to understand whether Mr T could make his payments in a sustainable manner before agreeing to lend to him. And if the checks Close Brothers 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.

Close Brothers says it agreed to lend after Mr T had confirmed, amongst other things, that he was single, living with his parents and in receipt of a net monthly income of £1,600 and after it had undertaken a credit check which showed Mr T had:

- debt of approximately £8,500 made up of 2 loans, 1 overdraft, 1 credit card and 1 mail order account
- monthly debt repayments of approximately £450
- been 1 month in arrears on two separate occasions on his mail order account in the last 12 months
- no arrears on any other borrowing
- no county court judgements
- not been declared insolvent

In Close Brothers view, taking everything into account, the monthly payments for this agreement were affordable.

On the other hand, Mr T says the agreement was unaffordable from the outset and this could and should have been apparent to Close Brothers.

I've thought about what Mr T and Close Brothers have said.

The investigator came to the view that the checks undertaken by Close Brothers were reasonable and proportionate and it made a fair and reasonable lending decision. And I don't disagree. I say this given:

- Mr T was single and living with his parents
- the size of the deposit paid by Mr T, this being £6,000 or 46% of the car's listed cash price
- the APR being less than 20%
- the monthly payment being less than £200 or 12% of Mr T's declared net monthly income of £1,600
- Mr T's existing debt repayments being in the region of £450 a month or 28% of his declared net monthly income

But even if I wasn't of this view I don't think that Close Brothers obtaining further information about Mr T's actual financial circumstances would have made a difference to its decision to lend in this instance.

I say this because based on bank statements and other information provided by Mr T I'm satisfied that although he was regularly overdrawn when his actual regular non-discretionary expenditure is added to his active credit commitments and deducted from the income he was receiving of £1,825 (rather than £1,600) he appears to have had enough left over to make the repayments to this agreement.

So I think that Close Brothers obtaining further information is likely to have led it to conclude that Mr T did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

Furthermore, whilst this isn't always indicative that a agreement was affordable at the outset, I can see that Mr T only ever missed a few of the monthly repayments required of him over the term of the agreement, missed payments which, in the main, were paid a short time later. And this isn't normally consistent with a borrower being unable to afford the monthly repayments.

What this means, in summary, is that like the investigator I'm satisfied that in the particular circumstances of this case Close Brothers made a fair and reasonable lending decision.

My final decision

My final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 30 May 2024.

Peter Cook
Ombudsman