

## The complaint

Mr T complains Specialist Motor Finance Limited (SMFL) irresponsibly approved a hire purchase agreement which he couldn't afford.

## What happened

In July 2019, Mr T acquired a used car through a hire purchase agreement from SMFL. The cash price of the car was £10,849, it was six years old and had done 60,987 miles. Under the agreement, he was to make 59 monthly repayments of £284.07, followed by a final instalment of £294.07. The total amount repayable was £17,354.20.

Mr T missed a repayment in August 2019. SMFL also agreed to defer payments due in April and May 2020 until the end of the agreement in recognition of the impact of Covid-19. Mr T settled the agreement in September 2021 with funds he received from a personal injury claim.

Mr T has representatives who complained to SMFL on his behalf in October 2022. They complained SMFL didn't carry out proportionate checks at the time the lending was agreed as Mr T had credit commitments and missed payments. Therefore, they said SMFL lent to Mr T irresponsibly and this affected how he was able to manage his finances.

SMFL responded to the complaint on 5 December 2022. It set out the checks undertaken and argued it had acted fairly in approving the finance.

Mr T remained unhappy with SMFL's response, so the complaint was referred to our service. Our investigator issued a view explaining why they thought the complaint shouldn't be upheld. Mr T's representatives confirmed he didn't agree so the complaint was passed to me for decision. SMFL confirmed it didn't have anything to add.

I issued a provisional decision on 4 July 2023. I said:

### *Did SMFL complete reasonable and proportionate affordability checks?*

*SMFL were required to ensure it carried out adequate checks on Mr T's ability to sustainably afford the agreement. These checks had to be borrower-focused and proportionate. What is considered proportionate will vary depending on the circumstances, such as (but not limited to): the total amount repayable, the size of the monthly repayments, the term of the agreement and the consumer's specific circumstances.*

*I've reviewed the application made by Mr T for the lending. Mr T confirmed his employment and income details. He also stated he was living with his parents. SMFL said it verified his net monthly income by reviewing his wage slips and confirmed he received £1,583 (which was approximately £110 less than stated). SMFL haven't provided this service with a copy of the wage slips it says it reviewed.*

SMFL also confirmed it considered Mr T's credit reference data and have provided system notes showing the information it had at the time. Mr T had eight active credit products. I can see he missed two payments on 1 July 2019, but it seems the accounts had been brought up to date at the time of the application.

In respect of the financial commitments, SMFL noted Mr T had existing monthly commitments amounting to £250.90. This meant with the additional borrowing, Mr T would need a total of £534.97 to meet his monthly commitments. This amounts to around a third of his net monthly income, which I'm satisfied is a significant proportion.

I'm also mindful the information showed he had two credit cards with no balance and credit limits of £250 and £300. He also had a current account with an overdraft limit of £550 and he was overdrawn by £477.

SMFL have confirmed it used information from a credit reference agency to calculate Mr T's affordability. This included estimates based on Mr T's income, residential status and region as well as rent. It also accounted for Mr T's financial commitments. Having done so, it estimated Mr T's disposable income as being £1,053.61.

Having thought carefully about the information SMFL gathered, I don't agree it completed reasonable and proportionate affordability checks. I think it should have done more to establish Mr T's accurate monthly expenditure. This is particularly because of the proportion of his net monthly income which would go towards meeting his financial commitments on approval of the agreement.

Would reasonable and proportionate checks have shown that Mr T would be able to repay the agreement without the repayments having a significant adverse impact on his financial situation?

Such additional checks might have included asking Mr T about his committed expenditure and, depending on what was said, verifying this by obtaining further information.

As I don't think SMFL carried out reasonable and proportionate checks, I've considered what a proportionate check would have looked like. I've reviewed three bank statements which show some of Mr T's expenditure in the three-month period leading up to the agreement. I'm not saying SMFL needed to obtain bank statements as part of its lending checks. However, in the absence of any further information, I think the bank statements will likely show a reflection of Mr T's financial circumstances at the time.

Having reviewed the bank statements, it seems Mr T transferred money between accounts and the account statements provided show very limited direct debits or standing order payments. Our investigator made a reasonable request for statements relating to Mr T's other accounts. But they've not been provided. Therefore, I'm currently unable to say what SMFL would likely have seen had it completed proportionate checks and asked about Mr T's monthly expenditure (either by questioning it with Mr T or requesting further information from him).

I appreciate Mr T had missed two payments prior to making the application and had eight credit products. I've reviewed Mr T's credit file and can see there was a missed payment in January 2019, two missed payments in January 2018 and four missed payments in 2017. There was also an arrangement to pay between October and December 2017. I can see Mr T made use of a payday loan in January 2019.

*However, I don't think this in itself should have led SMFL to question his ability to make the repayments. I note there were no defaults and the information showed he was generally managing his financial commitments. He also wasn't utilising all the credit available to him. So, I'm not able to conclude their lending decision was unreasonable based on the information I've received.*

*Did SMFL act unfairly or unreasonably in some other way?*

*I've reviewed the credit information and I can see Mr T went on to miss payments on some of his other credit commitments. I can see he first missed a payment for this agreement in August 2019 and he also couldn't make the repayments in April and May 2020.*

*I've reviewed the contact notes and can see Mr T provided reasons why he could not meet these commitments. This included receiving wages late, losing his job and the impact of Covid-19. I note SMFL offered to defer payments until the end of the agreement. I also recognise Mr T was able to settle the agreement with funds from a personal injury claim.*

*As I can't say what proportionate checks at the time of the agreement would have shown, it seems the financial difficulties were more likely caused by changes in circumstances across the relevant period, rather than as a result of the lending decision.*

*SMFL were obliged to treat Mr T with forbearance and due consideration if it was made aware or should reasonably have been aware that Mr T was in financial difficulties. However, Mr T gave a reason for his missed payments, and I'm satisfied SMFL acted fairly when Mr T contacted them about this.*

I gave both parties the opportunity to respond to my provisional decision and confirmed I would consider anything else they provided as long as it was submitted by 1 August 2023. I haven't received anything further from either party. So, I've proceeded with a final decision based on the information I do have.

**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.

Having considered everything, I see no reason to depart from the conclusions I reached in my provisional decision. Therefore, I remain of the view that SMFL didn't complete proportionate checks. However, the evidence I've seen isn't sufficient for me to say the lending was unaffordable. The reasons for this are outlined above. So, I'm unable to conclude SMFL shouldn't have entered the agreement even if they had completed proportionate checks and I won't be asking them to do anything to resolve this complaint.

**My final decision**

I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 7 September 2023.

Laura Dean  
**Ombudsman**