

## **The complaint**

Mrs S complains that Motonovo Finance Limited (MotoNovo), failed to take the direct debit payments following a payment arrangement that was set-up on her hire purchase agreement. Mrs S isn't happy with the impact it had on her credit file.

## **What happened**

In March 2019 Mrs S acquired a used car through a hire purchase agreement with MotoNovo. The purchase price of the car was £12,017. Mrs S paid a deposit of £200 which meant that the total amount financed on this agreement was £11,817 payable over 60 months at £237.52 each month.

Mrs S says that in May 2020, she requested and had been accepted for a reduced deferred payment arrangement of £100 per month, over the course of three months. Mrs S says she requested this because she'd been placed on furlough as a result of the impact of the Covid-19 pandemic.

MotoNovo confirmed the details of the payment arrangement, as described by Mrs S. They advised it was in place for June, July and August 2020, reverting back to the normal amount in September 2020.

Mrs S says that in August 2020 she received a missed call from MotoNovo while she was abroad, but then responded to a security check email from them on the same day to confirm her details. MotoNovo also confirmed this in their final response. Mrs S said she hadn't heard from MotoNovo for around six months after that.

Mrs S says that in February 2021 when reviewing her credit file, she noticed missing payment information in relation to her hire purchase agreement with MotoNovo. Mrs S says she contacted MotoNovo to find that there'd been an issue with the direct debit for her agreement.

MotoNovo confirmed that due to a system failure they hadn't called for the direct debit since August 2020 until after Mrs S contacted them in February 2021, which meant Mrs S' account had gone into arrears. Mrs S says MotoNovo initially told her they could protect up to six months payments as deferment payments on her agreement, but later advised she'd need to repay the full arrears before her credit file could reflect this.

Mrs S complained to MotoNovo that their mistake had led to the adverse information being recorded on her credit file.

On 4 March 2021 MotoNovo provided their final response to Mrs S complaint. They upheld her complaint based on a system failure affecting Mrs S' direct debit payments. However, they said they'd be unable to remove the markers on her credit file as they believed it would reflect incorrect information. MotoNovo said they would have expected Mrs S to have contacted them sooner about the payments not coming out of her account, however, they arranged to credit Mrs S' account with £100 for the poor service and distress and inconvenience caused as a result of their system failure.

Unhappy with their response to her complaint, Mrs S brought her complaint to us. One of our investigators looked into her complaint and felt that it should be upheld. The investigator didn't think that MotoNovo had acted fairly. Our investigator agreed with the level of compensation offered but asked that MotoNovo remove any adverse information from Mrs S' credit file in relation to the agreement.

Mrs S accepted our investigator's view but MotoNovo disagreed and asked that the complaint be referred to an ombudsman for a final 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.

In considering what is fair and reasonable, I've thought about all the evidence and information provided afresh and the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

The agreement in this case is a regulated hire purchase agreement. As such, this service is able to consider complaints relating to it.

My starting point is that Mrs S requested from MotoNovo, a reduced deferred payment arrangement over the course of June, July and August 2020. This has been confirmed by Mrs S in her complaint to us and by MotoNovo in their final response. Having considered a payment arrangement had been agreed and put in place for Mrs S, I've thought about whether it was processed correctly and whether Mrs S had been adversely affected by it.

MotoNovo advised in their correspondence to Mrs S that her direct debit would be taken by them. However, from the information provided it's clear to me that the direct debit for Mrs S' agreement failed to come out of her account from August 2020. This is apparent from what Mrs S has told us, and was confirmed by MotoNovo in their final response. MotoNovo also confirmed that the issue with the direct debit was as a result of their system failure. So, I don't think there's any dispute about how the direct debit had failed. Having considered the direct debit wasn't taken as a result of MotoNovo's system failure, I've considered whether it was fair that Mrs S' credit file had been affected as a result.

In February 2021 MotoNovo sent Mrs S an email advising that the direct debit should have resumed following the reduced payment in August 2020, however they confirmed that August's payment hadn't been collected either.

Section 86B of The Consumer Credit Act 1974 provides guidance in relation to payment arrears. In consideration of this, I would have expected MotoNovo to have informed Mrs S of her payment arrears sooner than they did. For example, by sending her a notice of sums in arrears letter detailing the overdue payments and providing information on how to bring the account up to date. I've seen no evidence that MotoNovo made any attempts to contact Mrs S after August 2020 for around six months. MotoNovo confirmed in their final response that they had no further correspondence with Mrs S until February 2021. In the circumstances I don't think it's fair that MotoNovo retrospectively showed the missed payments on the account.

Had MotoNovo's systems not failed, I've no reason to think that Mrs S' repayments wouldn't have continued as planned. I think it's likely Mrs S wouldn't have missed any payments on her agreement leading to adverse information being recorded on her credit file. In the

circumstances I don't think it was fair that Mrs S' credit file had been affected as a result of MotoNovo's error.

MotoNovo said that they would have expected Mrs S to have contacted them sooner after the direct debit had failed, considering she would have had additional surplus funds in her account. I don't think it's reasonable to have expected Mrs S to do this, considering a significant benefit of paying by direct debit is to ease any inconvenience of manually administering payments through an account. So, I don't think it's reasonable to have expected Mrs S to have been checking her account each month to ensure the direct debits had been taken, nor do I think she would necessarily have noticed that surplus funds were in her account if she hadn't been monitoring her balance. So, I'm persuaded by what Mrs S has said about only noticing when she reviewed her credit file.

I acknowledge that MotoNovo has presented Mrs S with different options to help her repay her arrears, and I recognise that Mrs S has made a significant payment towards it. However, as MotoNovo were admittedly at fault for the failure of the direct debit, for the reasons explained above, I think it's fair that MotoNovo should put things right for Mrs S. As I've found that Mrs S' payment would have likely continued as normal had the direct debit not failed, I be instructing MotoNovo to amend her credit file to reflect no adverse information in relation to her agreement. Mrs S may decide to continue liaising with MotoNovo with regard to her outstanding balance to ensure a suitable repayment plan is put in place.

In response to our investigator's view, Mrs S explained that she's dealing with a number of personal challenges, which I'm sorry to hear about. However, from the information provided I think the £100 compensation already paid to Mrs S by MotoNovo is fair in the circumstances to recognise their service failure.

### **Putting things right**

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### **My final decision**

To settle the complaint MotoNovo Finance Limited has already made a payment of £100 compensation. I think this offer is fair in all the circumstances.

So, my decision is that in addition to the £100 compensation payment, I instruct MotoNovo Finance Limited to:

- remove any adverse information that may have been recorded with the credit reference agencies in respect of the missed payments from August 2020 due under the hire purchase agreement Mrs S has with them.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 18 June 2022.

Benjamin John  
**Ombudsman**