

The complaint

Ms W complains that MotoNovo Finance Limited irresponsibly granted her a hire purchase agreement she couldn't afford to repay.

What happened

In April 2016, Ms W acquired a used car financed by a hire purchase agreement from MotoNovo. Ms W was required to make 35 monthly repayments of £239 followed by a final payment of £398. The total repayable under the agreement was £8,747.

Ms W says that MotoNovo didn't complete adequate affordability checks. She says if it had, it would have seen the agreement wasn't affordable. MotoNovo didn't agree. It said that it carried out a thorough assessment which included gathering information from Ms W as well as carrying out a credit check. It said it had reviewed Ms W's application as part of its investigation using the average income from her bank statements of £1,397 a month and that taking into account Ms W's commitment expenditure the repayments under the agreement were affordable. It said Ms W's credit check didn't show that she had payday loans at the time and didn't raise concerns.

Our adjudicator recommended the complaint be upheld. They thought MotoNovo ought to have realised the agreement wasn't affordable to Ms W.

MotoNovo didn't agree and said that the credit file evidenced its defence that Ms W didn't have the payday loans noted at the point of sale.

The case has been passed to me 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.

MotoNovo will be familiar with all the rules, regulations and good industry practice we consider when looking at a complaint concerning unaffordable and irresponsible lending. So, I don't consider it necessary to set all of this out in this decision.

I note MotoNovo's comments about the checks that were required at the time and the size and duration of the agreement. However, as MotoNovo didn't ask Ms W about her income or regular expenditure prior to lending, I don't think it was possible for it to make a fair assessment of Ms W's ability to afford the repayments without undue difficulty. It therefore didn't complete proportionate checks.

I think it would have been proportionate for MotoNovo to have asked for Ms W's income in some way. I've seen that Ms W's income in March and April 2016 was £1,397. It was slightly higher in February 2016. Therefore, an income figure of around £1,400 would be reasonable to use in the assessment. This means that the repayments under the agreement accounted for around 17% of her monthly income. While this amount doesn't in itself raise concerns, I

think it would have been proportionate for MotoNovo to have found out more about Ms W's committed expenditure, such as her living costs to ensure she could afford to sustainably repay the new agreement as well as her existing commitments.

I can't be sure exactly what MotoNovo would have found out if it had asked. In the absence of anything else, I think it would be reasonable to place significant weight on the information contained in Ms W's bank statements as to what would most likely have been disclosed.

I've reviewed months of bank statements leading up to the lending decision. These show that Ms W was paying around £1,450 a month towards her committed living expenditure including housing costs, food, transport and credit commitments (including credit cards and loans). These amounts include payments of around £550 for a short term loan. I accept this loan wasn't noted in Ms W's credit report but I think it more likely than not that had a review of her expenditure been undertaken then it would have been clear that Ms W's monthly outgoings were more than her income and therefore I think it reasonable to accept that her total level of expenditure (including all loans) would have been identified. Based on these numbers Ms W didn't have enough disposable income to afford the additional borrowing. MotoNovo therefore didn't act fairly by approving the finance.

Putting things right

As I don't think MotoNovo ought to have approved the lending, I don't think it's fair for it to be able to charge any interest or charges under the agreement. Ms W should therefore only have to pay the original cash price of the car, being £6,490. Anything Ms W has paid in excess of that amount should be refunded as an overpayment.

To settle Ms W's complaint MotoNovo should do the following:

- Refund any payments Ms W has made in excess of £6,490, representing the original cash price of the car. It should add 8% simple interest per year* from the date of each overpayment to the date of settlement.
- Remove any adverse information recorded on Ms W's credit file regarding the agreement.

*HM Revenue & Customs requires MotoNovo to take off tax from this interest. MotoNovo must give Ms W a certificate showing how much tax it's taken off if Ms W asks for one.

My final decision

I uphold this complaint and direct MotoNovo Finance Limited to put things right in the manner set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 24 May 2022.

Jane Archer
Ombudsman