

The complaint

Miss J complains that although MotoNovo Finance Limited (“MotoNovo”) accepted the finance they had provided was mis-sold; they didn’t acknowledge it was lent irresponsibly. She is also unhappy that to resolve her complaint they offered £150 in recognition of the distress and inconvenience caused rather than offer a refund of the interest paid.

What happened

I issued my provisional decision on this complaint in May 2022. An extract from that provisional decision is set out below.

What I’ve provisionally 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.

I don’t currently agree with our investigator’s view on this complaint and I’m expecting to tell MotoNovo to take some further action. I’ll explain why.

When MotoNovo provided their final response to Miss J they accepted that the finance had been mis-sold to her because it wasn’t affordable. I don’t think they had to say the money had been provided irresponsibly as I think that was clear in their response.

I won’t reconsider that irresponsible lending decision, but I will consider whether the redress MotoNovo offered was fair.

I don’t think the investigator has taken account of the fact the car was taken back before the agreement ended. Interest was being charged on each monthly payment and I don’t think it’s fair to suggest that because the capital hadn’t been paid there should be no refund of the interest that had been, up to the point the car was returned.

When we decide a business ought not to have approved lending we try to put the consumer back in the position they would have been in had the agreement not been mis-sold. We usually tell the business to refund all the payments the consumer has made, including any deposit. But, we think the consumer should pay for any use they have had from the goods.

Here, Miss J voluntarily terminated her agreement in December 2018, so I think it’s fair she pays for the use she had from it from 2015 when the agreement started. But I’m not persuaded that monthly repayments of over £183 are a fair reflection of what fair usage would be. This is because a proportion of those repayments went towards repaying interest.

There isn’t an exact formula for working out what a fair usage should be. In deciding what’s fair and reasonable I’ve thought about the amount of interest charged on the agreement, Miss J’s likely overall usage of the car and what her costs to stay mobile would likely have been if she didn’t have it. In doing so, I think a fair amount Miss J should pay is £121 for each month she had use of the car. This means MotoNovo can only ask her to repay a total of £4,598. Anything Miss J has paid in excess of that amount should be treated as an

overpayment.

To settle Miss J's complaint, I'm therefore expecting to tell MotoNovo to:

- Refund all the payments Miss J has made, less £4,598 for fair usage.
 - If Miss J has paid more than the fair usage figure, MotoNovo should refund any overpayments, adding 8% simple interest per year* from the date of each overpayment to the date of settlement. Or.
 - If Miss J has paid less than the fair usage figure, MotoNovo should arrange an affordable and sustainable repayment plan for the outstanding balance.
- It seems MotoNovo have already done so but, for completeness, once they have received the fair usage amount, MotoNovo should remove any adverse information recorded on Miss J's credit file regarding the agreement.

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

My provisional decision

I'm expecting to uphold this complaint and tell MotoNovo Finance Limited to put things right in the manner I've set out above.

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.

Miss J accepted my provisional decision and didn't have any further information to add. MotoNovo didn't reply with any new evidence.

So, I've not been provided with information that would lead me to change my provisional decision.

Putting things right

My provisional decision therefore becomes my final decision on this complaint.

My final decision

For the reasons I've given above I uphold this complaint and tell MotoNovo Finance Limited to:

- Refund all the payments Miss J has made, less £4,598 for fair usage.
 - If Miss J has paid more than the fair usage figure, MotoNovo should refund any overpayments, adding 8% simple interest per year* from the date of each overpayment to the date of settlement. Or.
 - If Miss J has paid less than the fair usage figure, MotoNovo should arrange an affordable and sustainable repayment plan for the outstanding balance.
- It seems MotoNovo have already done so but, for completeness, once they have received the fair usage amount, MotoNovo should remove any adverse information recorded on Miss J's credit file regarding the agreement.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 26 July 2022.

Phillip McMahon
Ombudsman