

The complaint

Mr S complains about MotoNovo Finance Limited's ("MotoNovo") decision to lend him.

Mr S has been represented by a third party. But for clarity, I've only referred to Mr S throughout this decision.

What happened

Mr S entered into a hire purchase agreement with MotoNovo in January 2020 to acquire a used car. The car cost £11,900 and under the agreement, Mr S was required to make 59 monthly payments of £301.47 followed by one monthly payment of £460.47.

In May 2020, Mr S contacted MotoNovo and told it he wouldn't be able to make his monthly repayments as a result of his income being affected by the Covid-19 pandemic. Mr S told MotoNovo he wanted to hand back the car. But it explained Mr S couldn't do this. Instead it offered a three month payment deferral to Mr S, which he accepted.

Following this, in August 2020, Mr S contacted MotoNovo and let it know his financial situation hadn't changed and that he wanted to hand back the car. MotoNovo told Mr S he could voluntary surrender ("VS") the car under the agreement, but he would be left with a balance to pay. Mr S agreed and the car was collected in September 2020.

In May 2021, Mr S complained to MotoNovo. He said it had irresponsibly lent to him and if it had done proper affordability checks, it would have found that the agreement wasn't affordable for him. He also said the dealership pressured him to take out the agreement after his partner failed a credit check. He said his partner made two payments and then stopped paying. Following this, Mr S's relationship with his partner ended and he said he had the car recovered at his own expense in April 2020. He also said MotoNovo didn't allow him to end the agreement when he requested this in May 2020 and because MotoNovo had unfairly lent to him, he didn't think he was liable to pay any outstanding amount.

MotoNovo issued its response to Mr S's complaint in June 2021. It said that it obtained details about Mr S's income before agreeing to lend to him and at that the dealership had confirmed Mr S entered all the application data himself. It also said it carried out a credit check which demonstrated the lending was affordable. It said whilst Mr S said his partner had been declined lending for the same car and the dealership prompted him to apply instead, it hadn't received any applications for finance for this car prior to Mr S making an application. It also said it had voluntarily terminated the agreement correctly.

Unhappy with this, Mr S referred his complaint to this service. He reiterated his complaint and said the dealership encouraged him to state he was self-employed when he was unemployed. He said MotoNovo had provided no evidence to show his outstanding debt was reduced by the proceeds of the sale when he was eventually allowed to terminate the agreement. To put things right, he said he wanted MotoNovo to clear the account and stop pursuing him for the debt. He also said he wanted MotoNovo to restore his credit file, reimburse his costs for having the car recovered and compensation for distress and inconvenience.

Our investigator looked into the complaint, but she thought MotoNovo had made a fair lending decision when lending to Mr S. She also said she didn't have any supporting information around Mr S's partner failing a credit check and so she couldn't comment on this.

And she said she felt MotoNovo had acted fairly when it provided him with a payment deferral and allowed him to voluntarily terminate the agreement.

Mr S disagreed and said the investigator didn't consider all of Mr S's expenditure and some of the income paid into his account was for a family member. But our investigator explained that even if she included the additional amounts Mr S had mentioned, the loan would still have been affordable. And so she said her view remained unchanged. Mr S disagreed and said he had made additional payments for bills in cash which weren't accounted for. So he said he still felt MotoNovo made an unfair lending decision.

As Mr S remains unhappy, the complaint has been passed to me to decide.

Since the complaint has been passed to me, MotoNovo has agreed to reduce Mr S's outstanding liability from £9,086.79 to £4,589.01. This is because it has accepted it provided incorrect information to Mr S during a phone call and so it has reduced Mr S's outstanding liability by the amount it received from the sales proceeds. I communicated this to Mr S and he has agreed that this has settled this part of his complaint. In light of this, I won't comment on this complaint point as part of this 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.

Where evidence is incomplete, inconsistent or contradictory, I reach my view on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available evidence and wider circumstances.

We explain how we handle complaints about irresponsible and unaffordable lending on our website. I've used this approach to help me decide Mr S's complaint.

MotoNovo needed to make sure that it didn't lend irresponsibly. In practice, what this means is that MotoNovo needed to carry out proportionate checks to be able to understand whether any lending was affordable for Mr S before providing it.

In this case, I think there are two overarching questions that I need to answer in order to fairly and reasonably decide Mr S's complaint. These two questions are:

1. Did MotoNovo complete reasonable and proportionate checks to satisfy itself that Mr S would be able to repay his loan without experiencing significant adverse consequences?
 - If so, did it make a fair lending decision?
 - If not, would those checks have shown that Mr S would've been able to do so?
2. Did MotoNovo act unfairly or unreasonably in some other way?

Did MotoNovo complete reasonable and proportionate checks to satisfy itself that Mr S would be able to repay his loan without experiencing significant adverse consequences?

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. I've carefully thought about what this means for Mr S's case.

MotoNovo has said before making its lending decision, Mr S told it his income, that he was self-employed and that it carried out a credit check which didn't show any adverse information and which allowed it to calculate Mr S's monthly committed expenses. The credit check MotoNovo has detailed only showed three financial commitments and there was no secured lending or unsecured lending recorded. However, MotoNovo hasn't provided us with any supporting information to demonstrate the checks it carried out. So I can't be satisfied that the checks it carried out were proportionate.

In the absence of this information, we asked Mr S to provide us with information about his financial circumstances to help us understand what MotoNovo would more likely than not have discovered when deciding to lend to Mr S. I accept different checks might show different things. And just because something shows up in the information Mr S has provided, it doesn't mean it would've shown up in any checks MotoNovo might've carried out.

Having reviewed the copy of the credit file Mr S has provided this service, it shows all his accounts are up to date apart from one where he missed payment around three months before MotoNovo approved this lending. For the same account, there were some missed payments in the 12 months prior to the lending. But I don't think this is concerning in itself as all of Mr S's accounts were up to date at the time the lending was approved.

I've also reviewed the bank statements provided by Mr S to show his income and expenditure in the three months before the lending was approved. Having reviewed these bank statements, I'm satisfied Mr S had enough disposable income to make the repayments without experiencing significant adverse consequences under the hire purchase agreement, even after accounting for the additional bills mentioned by Mr S.

Mr S has said that his employment status was recorded as self-employed when he was unemployed and said the dealership pressurised him into saying he was self-employed. The case notes MotoNovo has provided suggest that Mr S was employed at the time of lending. It has referred to a welcome call from the time the lending was taken out which suggests that Mr S told it that he had been employed for six months. It also referenced that when Mr S called it in May 2021 to tell it he wanted to hand back the car, he told it he had lost his job due to Covid-19. The dealership also confirmed to MotoNovo that the information was provided to them by Mr S. Having considered all these things, I think it's unlikely that the dealership pressured Mr S into saying he was self-employed instead of unemployed. But even if I'm wrong about it, this wouldn't change my decision as the lending was still affordable to Mr S.

So, having carefully considered everything, I'm satisfied that whilst MotoNovo could have carried out further checks before lending to Mr S, even if it had done, it would have found that the loan would have been affordable to Mr S. And so, I think it made a fair lending decision.

Did Moneybarn act unfairly or unreasonably in some other way?

Mr S says that MotoNovo prevented him from handing back the car when he first contacted it in May 2020. I've thought very carefully about this and having done so, I don't think MotoNovo unfairly prevented Mr S from returning the car. I'll explain why.

The terms of Mr S's agreement say:

"You have the right to end this agreement. To do so, you should write to the person you make your payments to. They will then be entitled to the return of the Vehicle and to half the total amount payable under this agreement, that is £9,123.60".

At the point Mr S told MotoNovo he wanted to hand back the car in May 2020, he hadn't paid half the total amount payable. And so, whilst he was entitled to return the car at that point, he would have remained liable to pay half the total amount payable under the agreement.

MotoNovo has said because Mr S had told it he was affected by the Covid-19 pandemic, it offered Mr S a three month payment deferral. This is something I would have expected it to offer at the time given that The Financial Conduct Authority (FCA) issued temporary guidance on 24 April 2020, that came into effect on 27 April 2020, about customers who were faced with payment difficulties as a result of Covid-19. This allowed financial businesses such as MotoNovo to grant a three-month payment deferral to people like Mr S.

The guidance said that *“a firm should grant the customer a payment deferral for 3 months unless the firm determines (acting reasonably) that it is obviously not in the customer’s interests to do so.”* MotoNovo told Mr S about this and he accepted the three month payment deferral. Having considered this, I don’t think MotoNovo unfairly prevented Mr S from handing back the car as it provided Mr S with the payment deferral option he was entitled to at the time and Mr S accepted it.

Mr S said the dealership pressured him to take out the agreement after his partner failed a credit check. However, Mr S hasn’t provided any supporting information to show this and MotoNovo has confirmed it didn’t receive any other finance applications for this car, apart from the one made by Mr S. So having thought about this and given the lack of supporting information from Mr S, I think it’s unlikely Mr S was pressured into taking out the agreement after his partner failed a credit check.

Overall, I’m satisfied that MotoNovo made a fair lending decision and I don’t think it acted unfairly or unreasonably in any other way.

My final decision

MotoNovo Finance Limited has already made an offer to reduce Mr S’s outstanding liability from £9,086.79 to £4,589.01 to settle the complaint and I think this offer is fair in all the circumstances.

So my decision is that MotoNovo Finance Limited should reduce Mr S’s outstanding liability from £9,086.79 to £4,589.01.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr S to accept or reject my decision before 10 November 2022.

Sonia Ahmed
Ombudsman