

The complaint

Mr B complains that FirstRand Bank Limited, trading as Motonovo Finance (“Motonovo”), irresponsibly granted him a hire purchase agreement he couldn’t afford to repay.

What happened

In November 2016, Mr B acquired a used car financed by a hire purchase agreement from Motonovo. Mr B was required to make 58 monthly repayments of £151.92 with a final payment due of £310.92. The total repayable under the agreement was £9,673.

Mr B got into difficulty with meeting the monthly agreement within a few months of taking out the agreement. The agreement was settled in February 2022.

Mr B says that Motonovo didn’t complete adequate affordability checks. He says if it had, it would have seen the agreement wasn’t affordable and he was already in debt. Motonovo didn’t agree. It said that it carried out a thorough assessment which included estimating Mr B’s income and carrying out credit checks.

Our adjudicator recommended the complaint be upheld. He thought Motonovo ought to have realised the agreement wasn’t affordable to Mr B.

As Motonovo didn’t agree, the complaint 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.

First, I’ve seen that Motonovo has asked for copies of the bank statements we have relied on, highlighting our findings on each statement. They have said this would help it review its investigation. From what I’ve seen, however, these are the same statements that Mr B provided to Motonovo when it was looking into his complaint. When giving his view on the complaint, I think our adjudicator set out enough information about what he’d seen in the bank statements that led to him upholding this complaint. So I don’t agree that it’s necessary for us to carry out the further exercise that has been requested by Motonovo. I say this particularly given that our finding was reached on what appears to be broadly the same information to which Motonovo has already had access.

Before granting the credit, I’ve seen that Motonovo found out about Mr B’s occupation. But I can’t see that it took steps to verify his income from his job before approving the finance. I don’t think that obtaining statistical information about what Mr B’s salary was likely to have been was enough to properly establish his income at the time. I say this especially having taken into account the overall size of the borrowing, the monthly repayments and the term of

the agreement. I therefore think it would have been proportionate for Motonovo to have done more to verify Mr B's income as part of its enquires in order to ensure the agreement was affordable.

I've also seen that Motonovo recorded that Mr B was living at home with his parents. But Motonovo didn't ask Mr B about his expenditure. Although it had completed a credit check, this won't have given a full account of what Mr B's regular living expenses were. Also, it would not necessarily have included details about the short-term borrowing Mr B had been taking out. Without knowing more about Mr B's regular committed expenditure, I don't think Motonovo would have gained a reasonable understanding as to whether the agreement was affordable or not. It therefore didn't complete proportionate checks

I can't be sure exactly what Motonovo would have found out had it carried out better, more proportionate checks. But 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 his bank statements as to what would most likely have been disclosed.

I've reviewed the same three months of bank statements leading up to the lending decision as our adjudicator. Also, and as already mentioned, I have had the opportunity to consider Mr B's bank statements going back to July 2016 and up until January 2017. Throughout the months leading up to the agreement, Mr B was for the most part using almost all of the overdraft made available to him on his current account. Like our adjudicator, I've also seen that in addition to his regular monthly outgoings, Mr B was borrowing heavily from several high cost lenders. I've noted in particular that in August 2016 Mr B was making total repayments to these lenders of around £1,500 per month and in September 2016 those payments were around £1,100. I've also seen that in September October 2016 Mr B was making use of online gambling sites, contributing to a worsening of his already deteriorating financial situation.

I think all this demonstrates that Mr B was struggling financially in the run up to taking out the agreement and was taking on a level of borrowing that would leave him with very little, if any, disposable income once he'd met his existing committed expenditure. I am therefore satisfied that he didn't have enough disposable income to afford the additional borrowing. Motonovo therefore didn't act fairly by approving the finance.

Putting things right - what Motonovo needs to do

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. Mr B should therefore only have to pay the original cash price of the car, being £6,400. Anything Mr B has paid in excess of that amount should be refunded as an overpayment.

To settle Mr B's complaint Motonovo should do the following:

- Refund any payments Mr B has made in excess of £6,400, 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 Mr B's credit file regarding the agreement.

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

My final decision

I uphold this complaint and direct FirstRand Bank Limited, trading as Motonovo Finance, to put things right in the manner set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 15 May 2023.

Michael Goldberg

Ombudsman