

The complaint

Miss O is complaining about FirstRand Bank Limited trading as MotoNovo Finance's decision to lend to her – she says the loan was unaffordable.

What happened

In April 2016, Miss O took out a hire purchase agreement with MotoNovo to finance the purchase of a car. She paid a deposit of £300 and borrowed £6,400 – the cash price of the car was £6,700. The agreement required her to make 59 monthly repayments of £186.67, followed by a final payment of £585.67. Miss O first started to miss payments towards the end of 2016 and her payments were sporadic from then until April 2019. She made no further payments after that date and the account was terminated in December 2019.

In April 2023 Miss O complained to MotoNovo, saying they shouldn't have lent to her. She said she was very young at the time, had been out of work for four months and only recently started a new job. She also said MotoNovo hadn't dealt with her sympathetically and positively once she fell into arrears.

In response, MotoNovo said they had checked Miss O's credit file before lending to her. And they said that they'd reviewed Miss O's statements in addressing her complaint and their view was that the hire purchase agreement was affordable for her at the time.

Miss O wasn't happy with MotoNovo's response so she brought her complaint to our service. After MotoNovo queried jurisdiction our service decided we could look into the complaint. But our investigator didn't uphold it – he said although MotoNovo hadn't done proportionate checks, it's likely that if they had done, the agreement would have appeared to be affordable for Miss O.

Miss O didn't agree with our investigator's view – she highlighted that she'd only been in employment for one month after several months of unemployment. She added that if MotoNovo had asked for her bank statements and credit card statements they'd have realised she had a problem with gambling. And she said she had no intention of living with her parents for the five year term of the agreement. Miss O also mentioned she'd had a different complaint about unaffordable lending from around the same time upheld. She asked for an ombudsman's decision – and the complaint has come to me.

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.

Having done so, and acknowledging it'll be disappointing for Miss O, I'm not upholding Miss O's complaint for broadly the same reasons as our investigator - I'll explain below.

I'll first note though that we look at each complaint individually – so I won't take into account the fact that Miss O had another complaint upheld from around the same time – I'll consider this case on its own merits.

The Financial Conduct Authority (FCA) sets out in a part of its handbook known as CONC what lenders must do when deciding whether or not to lend to a consumer. In summary, a firm must consider a customer's ability to make repayments under the agreement without having to borrow further to meet repayments or default on other obligations, and without the repayments having a significant adverse impact on the customer's financial situation.

CONC says a firm must carry out checks which are proportionate to the individual circumstances of each case.

Did MotoNovo carry out proportionate checks?

MotoNovo's checks were very limited. They did a credit search which showed Miss O had three credit card accounts and a mail order account, all of which she'd held for a short time but had managed well in that time. Miss O's application said she was employed full-time and lived with her parents, but I've seen no evidence that MotoNovo considered Miss O's circumstances when deciding to lend to her. And I haven't seen anything to suggest MotoNovo took any steps to ascertain or estimate Miss O's income – which CONC requires.

In short, I'm satisfied MotoNovo did not carry out proportionate checks when deciding to lend to Miss O. They were lending her a significant amount of money which required payments over a five-year period. And Miss O's credit file showed limited experience of managing credit. I've seen nothing to suggest MotoNovo considered Miss O's ability to sustainably make repayments under the agreement.

If MotoNovo had carried out proportionate checks, what would they have found?

A proportionate check would have involved MotoNovo finding out more about Miss O's income and expenditure to determine whether she would be able to make repayments in a sustainable way.

I've thought about Miss O's income. She doesn't think it would have been appropriate for MotoNovo to lend to her because she'd only recently started a new job. But I think if MotoNovo had asked for some proof of Miss O's employment being permanent, and of her expected income, they could have reasonably assumed she'd sustain that level of income for the foreseeable future. Miss O's net income looks to have been around £1,100 per month at the time.

I appreciate Miss O's told us she left her previous employment because of her mental health. But I'm not persuaded she'd have disclosed this at the time of applying for the finance. And it appears her new job was quite different from her previous job. So I don't think it's fair to say MotoNovo should have declined to lend on that basis.

Turning to Miss O's expenditure, I can see she had credit balances totalling around £1,070. So I'd have expected MotoNovo to assume Miss O would need to make payments of around £52 per month against those balances.

Miss O's confirmed she was living at home at the time of her application, and wasn't contributing to household bills. She's told us she wasn't contributing because she'd been out of work for a few months - but that wasn't a long-term solution. Proportionate checks would have involved MotoNovo making an estimate of Miss O's living expenses. It's difficult to know what she would have told MotoNovo at the time, and she's told us she can't remember what informal arrangements she had so I've looked at her bank statements for the months preceding the lending decision, but also for June and July 2016, by which time she was earning and could therefore afford to contribute to household expenses.

I'm not saying MotoNovo needed to obtain bank statements as part of their lending checks – there's no requirement for them to do so. But in the absence of other information, bank statements provide a good indication of Miss O's financial circumstances at the time the lending decision was made.

The statements I've looked at suggest Miss O had minimal committed expenditure – instead her spending seems to have been largely discretionary. She was making some payments to family and friends but it appears these were more to repay money borrowed rather than a contribution towards living costs.

Deducting Miss O's existing credit commitments of £52 per month and the costs of this new agreement of £187 per month from her income of £1,100 per month left her with around £860 per month to cover food, fuel, car insurance, and other expenses. Given her living circumstances at the time I don't think it would have been unreasonable for MotoNovo to decide to lend to her on that basis. And I'm not persuaded Miss O would have told MotoNovo she intended to move out from her parents' house and live independently.

In summary, although I don't think MotoNovo did enough to check that the agreement was affordable for Miss O, I'm satisfied that they'd have been able to fairly decide the agreement was affordable if they had done proportionate checks.

Did MotoNovo treat Miss O unfairly in any other way?

Part of Miss O's complaint is that MotoNovo didn't treat her sympathetically and positively when she fell into arrears. The FCA's Principle 6 requires a firm to treat customers fairly. And CONC 7 requires a firm to treat customers with forbearance and due consideration.

I've looked through MotoNovo's detailed contact notes. I can see they made numerous attempts to discuss the arrears with Miss O, they completed income and expenditure assessments and looked to set up payment plans. They were hampered a little by Miss O being uncontactable by telephone. And her disposable income was very variable - being significant on one occasion and negative on another. So MotoNovo weren't able to establish a suitable repayment plan. I've not seen any evidence that MotoNovo treated Miss O unfairly or inappropriately. I'm satisfied they gave her plenty of time to make payments and gave her opportunities to discuss payment plans or the alternatives around returning the car.

My final decision

As I've explained above, I'm not upholding Miss O's complaint against FirstRand Bank Limited trading as Motonovo Finance.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss O to accept or reject my decision before 27 March 2024.

Clare King
Ombudsman