

The complaint

Miss L complains that FirstRand Bank Limited trading as Motonovo Finance (“Motonovo”) unfairly entered into a hire purchase agreement with her. She says that due to her personal and financial circumstances at the relevant time the agreement was unaffordable.

What happened

In April 2016 Miss L entered into an agreement with Motonovo for a used car costing £4,815. Under the terms of the agreement, everything else being equal, Miss L undertook to pay a deposit of £100 followed by 59 monthly payments of £101.65 and 1 monthly payment of £251.65, making a total repayable of £6,349 at an APR of 11.6%.

The agreement was settled in May 2021. Miss L didn’t miss any payments required of her and incurred no late charges or fees.

Miss L 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 it had seen no *“evidence that the agreement was not affordable at the point of sale”*.

Our investigator came to the view that Motonovo didn’t make an unfair lending decision.

Miss L didn’t agree with our investigator’s view and so her complaint has been passed to me for review and 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.

In this decision I’ve focussed on what I think are the key issues. Our rules allow me to do this and these rules reflect the informal nature of our service as a free alternative to the courts. If there’s something I’ve not mentioned, it isn’t because I’ve ignored it. I haven’t. I’m satisfied I don’t need to comment on every individual argument (including those made by Miss L following the investigator’s view) to be able to reach what I think is the right outcome. I will, however, refer to those crucial aspects which impact my decision.

I would also add I’ve not carried out a form of compliance check or sought to enforce any rules or guidance. What I’ve done is looked at everything provided and decided whether Miss L has lost out due to Motonovo failing to act fairly and reasonably in its dealings with her.

Finally I would like to make it clear that I’m not considering in this decision any complaint that Miss L might have about the supplying dealership, such as a complaint about, but not restricted to, the price it paid for her part exchanged car. This is because as pointed out by the investigator these are complaints that need to be made by Miss L against the supplying dealership not Motonovo.

We've explained how we handle complaints about irresponsible and unaffordable lending on our website. And I've used this approach to help me decide Miss L's complaint.

Having carefully thought about everything I've been provided with I'm not upholding Miss L's complaint. I'd like to explain why in a little more detail.

Motonovo needed to make sure that it didn't lend irresponsibly. In practice, what this means is that it needed to carry out proportionate checks to be able to understand whether Miss L could make her payments in a sustainable manner before agreeing to lend to her. And if the checks Motonovo carried out weren't sufficient, I then need to consider what reasonable and proportionate checks are likely to have shown.

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.

The first thing for me to say is that like the investigator I'm not persuaded that the checks Motonovo carried out went far enough. In my view, I think Motonovo should have carried out further checks into Miss L's actual circumstances. That said, I don't think that Motonovo obtaining further information on Miss L's actual non-discretionary expenditure would have made a difference to its decision to lend in this instance.

I say this because based on bank statements and other information provided by Miss L when her non-discretionary expenditure is deducted from the income she received she appears to have had enough left over to make the repayments to this agreement. And for the avoidance of doubt I can confirm that I'm in broad agreement with the figures quoted by the investigator in their view in this respect.

I think it's also worth pointing out that although Miss L says that the investigator, in coming to the view that the agreement was affordable, failed to take into account the costs of running the 'new' car I can see that she was already making such payments in respect of an existing car without problems, a car I assume she part-exchanged for the 'new' car.

So I think that Motonovo obtaining further information is likely to have led it to conclude that when Miss L's non-discretionary expenditure was deducted from her monthly income, she did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

Furthermore, whilst this isn't always indicative that a loan was affordable at the outset, I can see that Miss L made all the payments required of her and on time. And this isn't normally consistent with a borrower being unable to afford the monthly repayments.

Finally I note that Miss L says that the agreement APR was high and she didn't understand it. But like the investigator pointed out the APR was clearly detailed on the agreement Miss L signed along with the monthly payments required from her and how much she would repay, everything else being equal, if the agreement ran full term – which it did. So although I can't say for certain that Miss L understood the agreement terms, I'm simply not persuaded that Motonovo did anything wrong in this respect.

So overall and having carefully considered everything, while I don't think that Motonovo's checks before entering into this agreement with Miss L did go far enough, I've not been satisfied that doing more would have prevented it from providing these funds or entering into this agreement with her.

Overall I'm therefore satisfied that Motonovo didn't act unfairly towards Miss L when it lent to her and I'm not upholding Miss L's complaint. I appreciate that this will be very disappointing for Miss L. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

My final decision

My final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 11 June 2024.

Peter Cook
Ombudsman