

Complaint

Ms L complains that FirstRand Bank Limited (trading as “MotoNovo” Finance) unfairly entered into a hire-purchase agreement with her. She’s said the payments to her agreement were unaffordable.

Background

In July 2018, MotoNovo provided Ms L with finance for a used car. The cash price of the vehicle was £8,048.00. Ms L paid a deposit of £100 and entered into a hire-purchase agreement with MotoNovo to cover the remaining £7,948.00.

The loan had interest, fees and total charges of £2,409.00 (comprising of interest of £2,408.00 and an option to purchase fee of £1), and the total amount to be repaid of £10,357.00 (not including Ms L’s deposit) was due to be repaid in 47 monthly instalments of £215.75 and then 1 final payment of £216.75.

Ms L’s complaint was considered by one of our investigators. He didn’t think that MotoNovo had done anything wrong or treated Ms L unfairly. So he didn’t recommend that Ms L’s complaint should be upheld.

Ms L disagreed with our investigator and the complaint was passed to an ombudsman for a final decision.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

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 Ms L’s complaint.

Having carefully thought about everything I’ve been provided with, I’m not upholding Ms 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 MotoNovo needed to carry out proportionate checks to be able to understand whether Ms L could make his payments in a sustainable manner before agreeing to lend to him. 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.

Given the information provided, it seems to me that MotoNovo agreed to this application after it asked Ms L to provide details of her employment status and employer and it carried out credit searches on Ms L. The credit searches showed up that Ms L had some existing credit but that this was being relatively well maintained. While copies of bank statements have been provided, I think that these are copies provided during the course of the complaint rather than information Ms L provided at the time.

As MotoNovo is defending this complaint and is providing submissions from the time that it agreed this loan, I'm taking its position to be that the information it had at the time indicated that the monthly payments on this agreement were affordable for Ms L.

On the other hand, Ms L says that she couldn't have afforded this.

I've thought about what Ms L and MotoNovo have said.

The first thing for me to say is that MotoNovo's income checks appear to be limited to Ms L's employer and role. I can't see anything to show that it obtained Ms L's income at this stage. So much like our investigator, I don't think that the checks MotoNovo carried out did go far enough. In my view, MotoNovo needed to take further steps to ascertain Ms L's actual living costs as well her income, given it won't have known whether it would have been reasonable to rely on average data in circumstances where it didn't know her income.

I've not seen anything to indicate that MotoNovo did do this. So, in these circumstances, I don't think that it carried out reasonable and proportionate checks before deciding to lend to Ms L.

As MotoNovo didn't carry out sufficient checks, I've gone on to decide what I think MotoNovo is more likely than not to have seen had it obtained further information from Ms L. As I've explained bearing in mind the circumstances here, I would have expected MotoNovo to have had a reasonable understanding about Ms L's regular living expenses as well as her income and existing credit commitments.

To be clear I'm not going to carry out a forensic analysis of whether the loan payments were affordable. I'm simply going to consider what MotoNovo is likely to have done if it obtained the missing information I think it should have done here. I say this because this information provided does appear to show that when Ms L's committed regular living expenses are added to her credit commitments and then deducted from her income, she could sustainably make the repayments due under this agreement.

I accept it's possible that Ms L's actual circumstances at the time might have been worse than what the information she's provided shows. I know that Ms L has referred to being in temporary employment and this wasn't guaranteed going forward. However, MotoNovo did take steps to ascertain Ms L's employer as well as her employment status.

I can't see that Ms L disclosed that she was in temporary employment. And all MotoNovo could do was make a decision based on what it had, or is likely to have had, had it done proportionate checks. In this case, this would have been with a view to finding out how much Ms L received each month and it would have been entitled that Ms L would continue receiving this on an ongoing basis. In any event, I'd also point out there isn't a prohibition on lending to employees in temporary employment either.

Having considered everything, I'm satisfied that the available information indicates that MotoNovo is likely to conclude that Ms L did have sufficient funds left over, once her regular living expenses and discernible committed expenditure was deducted from her monthly income, to make her monthly payments in a sustainable manner.

Furthermore, as obtaining bank statements wasn't the only way for MotoNovo to find out about Ms L's living expenses, I'm not persuaded that any gambling is particularly relevant here – this is particularly as Ms L received a vehicle (which she couldn't gamble) rather than cash funds. Therefore, I'm not persuaded that MotoNovo doing more checks here would have resulted in it making a different lending decision.

Overall and having carefully considered everything, while I don't think that MotoNovo's checks before entering into this hire purchase agreement with Ms L did go far enough, I'm satisfied that carrying out reasonable and proportionate checks won't have prevented MotoNovo from providing these funds, or entering into this hire-purchase agreement with her.

I'm therefore satisfied that MotoNovo didn't act unfairly towards Ms L and I'm not upholding her complaint. I appreciate that this will be very disappointing for Ms 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 that I'm not upholding Ms L's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms L to accept or reject my decision before 27 June 2024.

Jeshen Narayanan
Ombudsman