

The complaint

Mr M complains through a representative that Motonovo Finance Limited ("Motonovo") didn't check to make sure the hire purchase agreement was affordable for him.

Mr M's representative also says that he didn't receive copies of all the paperwork and the time at the dealership was rushed and so he had little time to check the car over. He has also raised concerns about the quality of the vehicle.

What happened

In October 2022, Motonovo provided Mr M with a hire purchase agreement through a broker for a used car which had a retail price of £8,879. Mr M paid a £600 deposit and so £8,279 was financed. The agreement had fees and interest totalling £2,139.88. The total to repay under the agreement was £11,019.88. This agreement was to be repaid with 47 monthly repayments of £217.06 followed by a final payment of £218.06. The most up to date statement of account shows an outstanding balance remains.

Motonovo considered Mr M's complaint and didn't uphold it. Mr M's representative referred the complaint to the Financial Ombudsman where it was considered by an investigator. They also didn't uphold it even though they thought Motonovo ought to have taken some steps to check the income Mr M had declared, but even if Motonovo had done that it still would've approved the finance.

The investigator also said based on the information that he had available to him at the time he wasn't able to uphold the complaint about the quality of the car at the time of sale considering the number of miles Mr M had driven as well as the car passing its MOT.

Mr M's representative didn't agree with the outcome, but he did acknowledge that further comments would be needed in order to continue with the quality of goods element of the complaint and no further comments have been provided about this. Below is a summary of the comments in relation to the affordability complaint;

- Mr M would be retired by the end of the agreement and no checks were carried out to see whether he could afford the repayments into retirement age.
- Motonovo needed to carry out a more detailed investigation into Mr M's finances.
- Mr M didn't have the level of disposable income the investigator suggested, he didn't have any savings and he was at times overdrawn on his bank account.
- Mr M worked overtime, and this wasn't always guaranteed.
- Mr M had two utilities payments because one was an overpayment after falling into arrears.
- Mr M had an IVA, which was disclosed to the dealership – which hasn't been considered and it's not clear whether Motonovo was aware of it.
- Although a credit search was conducted this wasn't sufficient because not all agencies hold the same information.
- When the agreement was entered into no documents were presented to Mr M nor discussed.

The investigator thought about the above comments, but he wasn't persuaded to change his mind about the outcome. Further comments were received from Mr M's representative and in addition to the comments above he said;

- Mr M's initial application for credit was declined after disclosing the IVA and so the broker approached Motonovo.
- Pre-contract information hasn't been received dispute the dealership saying it would be.
- Due to this agreement Mr M will be forced to work into retirement considering the size of his pension.

As no agreement could be reached the complaint has been passed to me to decide.

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.

Mr M's representative has also raised arguments about the role of the dealer throughout its dealing with Mr M – such as rushing through the agreement, not providing all of the paperwork and then potentially not disclosing information to Motonovo about an IVA.

Based on the limited information there is, it doesn't seem that the broker told Motonovo about the IVA but I've commented more about this below. I've also, as best as I can formed a view about the disclosure of the documents.

All Motonovo has been able to confirm is the agreement in question was signed electronically and Motonovo says the dealer completed all the necessary process a few minutes later and on the same day. By Mr M signing the agreement, Motonovo says he would've been able to view information about the finance such as the term and interest rate. So, there is, at least based on what Motonovo says some disagreement between the parties about what Mr M saw (or didn't see) and what was received at the time the finance was granted.

As part of this process, Mr M provided driving licence data and the system notes show that an email address was given by Mr M at this time as well. However, I accept that Mr M's representative has also raised concerns around the pre-contract information not being received. But based on the information I've seen it would appear Motonovo provided the information that I would expect it to provide when entering into a finance agreement.

In addition, while the investigator, in their first view commented on the quality of goods complaint, no substantive comments were raised by Mr M's representative after this point in time. I've therefore not considered that complaint any further and this decision solely focuses on what Motonovo did – or didn't do when it granted finance to Mr M.

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 Mr M's complaint. Having carefully thought about everything I've been provided with; I'm not upholding Mr M's complaint. I'll explain why in more detail here.

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 sustainable for Mr M before providing it.

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.

Motonovo says before the agreement was entered into it asked Mr M for details of his employment and carried out a credit search. Having thought about this, for the reasons given below, I don't consider those checks to be proportionate.

As part of the application, I can see Motonovo took details of Mr M's income, and this was declared as being £22,500 per year from full time work. But it doesn't look like any further checks into Mr M's income were undertaken at this time. It also doesn't look like Motonovo took details of his monthly outgoings. However, it did carry out a credit search and it's provided a copy of the results it received.

Mr M's representative has said, that it may not be sufficient to carry out a credit search with just one of the credit reference agencies as not all creditors report information to all of the agencies – and Mr M is correct in saying that. Not all creditors report to all of the credit reference agencies.

But there was no regulatory requirement to carry out a credit search at the time let alone one to a specific standard. This does mean that a lender may only ask for certain pieces of information for example details of active accounts. The results received by Motonovo may differ from the credit report which Mr M has provided as part of his complaint. But, it's also entirely fair and proportionate for Motonovo to have relied on the results that it received.

As I've said, Motonovo has provided a copy of the results that it received from the credit reference agency. The credit reference report didn't show that Mr M was having or likely having financial difficulties. There were no County Court Judgments, defaults, missed payments or anything else that may have alerted Motonovo that Mr M was having difficulties.

Indeed, the results showed that he only had one current account and two communication suppliers and two utilities. There weren't significant balances or indications that Mr M was over indebted.

I appreciate that Mr M's representative has said that one of the utilities accounts on the credit file related to arrears that had already built up on the account. But that wasn't reflected in the information received by Motonovo and so I can't fairly say it ought to have known about this at the time.

Mr M was previously subject to the terms of an IVA and Mr M's representative has recently provided details about this. This shows it was entered into in November 2017 with the completion certification dated December 2021. So, the IVA had been completed for around 10 months before the finance was agreed.

The information about the IVA wasn't apparent in the credit search results Motonovo received. I made further enquires with Motonovo about what if anything it knew about the IVA. It says it wasn't aware of it - and this is backed up by the system notes it's provided. As

I've said above, it's entirely possible that Mr M did disclose the IVA to the dealer and this information wasn't passed on to Motonovo – but I can't be sure of this.

But even if Motonovo was aware of the IVA – to be clear I can't conclude that it was – that wouldn't have in my view led to it automatically declining the application. If anything, it would've led to further checks, which for the reason below Motonovo needed to have carried out anyway.

So, while Motonovo knew that Mr M's existing debts were being well maintained, as far as I can see it didn't have any verification of his income nor what his living costs were. Without this information I can't fairly conclude that a proportionate check was conducted when Motonovo didn't appear to have even the most basic of understanding of Mr M's income and expenditure.

Motonovo could've gone about looking into Mr M's finances in more detail a number of ways, it could've asked for copy bank statements or any other documentation Motonovo felt was needed to satisfy itself that Mr M was able to afford his repayments – such as copy bills or payslips.

I accept that had Motonovo conducted proportionate checks it may not have seen all the information that I have seen. But, in the absence of Motonovo conducting a proportionate check I do think it's entirely fair and reasonable to consider the bank statements that I now have access to.

To be clear, the bank statements are only being used in order to try and establish what Mr M's likely monthly income and outgoings were. This wasn't and isn't intended to be used in order to conduct a full financial review – as I don't think that would've been warranted before Mr M entered the agreement. I've reviewed the bank statements provided for July – September 2022.

Even though I don't think Motonovo's checks went far enough that alone isn't sufficient to uphold the complaint. I would also have to be satisfied that had Motonovo conducted further checks it would've likely discussed the agreement was unaffordable or unsustainable for Mr M. Having looked at both Mr M's bank statements and copy payslips he has provided; I've concluded that further checks wouldn't have altered Motonovo's decision to lend.

Mr M has provided copy payslips for the weeks before the loan was granted. Mr M was paid weekly and he usually received around £440 - £445 per week. There is some variation to this such as at the end of August 2022 he earned as low as £418. It looks like Mr M worked a 38 hours a week but the payslips I've seen do show he was working overtime and the payslips show this was between 6 to 8 hours per week.

I've considered that Mr M's representative says the overtime wasn't guaranteed, but given the period of time I've reviewed including the bank statements – as well as the payslips that have been provided. I do think, in the circumstances it would've been reasonable for Motonovo to have considered that it's more likely than not that Mr M would receive a weekly income in line with what I've set out in the preceding paragraph.

On top of this, Mr M was receiving a regular payment from the NHS of £165 per month as well as a further payment from the government of £100 per month. This leads to an annual income of around what Motonovo used as part of the application, so it's likely that Mr M was aware on average, of what his yearly income was.

So, even though the checks into Mr M's income didn't go far enough – had more checks been carried out than Motonovo would have likely discovered what Mr M declared was broadly accurate.

I've also considered what Mr M's representative says about Mr M approaching state pension age, indeed given the evidence supplied by the representative Mr M could, in theory claim his state pension while there was still 18 months left to run on the agreement.

Motonovo may have wanted to take this into account – because it would be foreseeable that there could be a change in Mr M's income during the period when the agreement was due to run.

I made some enquiries with Motonovo about this, and it says that it didn't consider Mr M's approaching retirement age because it wouldn't assume that someone would retire at earliest point when they could claim their pension. This doesn't on the face of it seem unreasonable, after all had Motonovo just declined the application purely because it would take the agreement past Mr M's state pension age that could, in some situations been seen as discriminatory.

But there is no prohibition in the rules or guidance that prevented Motonovo from lending to Mr M beyond his state pension age and given the amount Mr M could receive from his pension, taking account of the other expenditures and lack of other credit, I don't think his approaching retirement age would've led Motonovo to have either declined the application.

So, I don't think Mr M's potential retirement age ought to have led to further checks beyond what I've gone on to consider.

In saying the above, I've reviewed Mr M's bank account statements and I don't think that this would've led Motonovo to either decline the application nor feel the need to have looked more closely at Mr M's financial position.

As the investigator pointed out, there are at times a significant number of transfers going out of and into Mr M's account. I've not seen this other account and Mr M's representative says that he didn't have any savings. So, it's possible that the money was just being moved around. But, in any event, these transfers wouldn't have been of concern to Motonovo.

There aren't many other creditors visible in the statement, there are payments for a mobile phone but this was reflected in the credit search results – indicating that Mr M wasn't overindebted.

I can also see a number of regular payments including for petrol, food and other costs as well which are likely to be housing and insurance. But even taking account of these costs that Motonovo should've gathered before granting the finance, it would've appeared affordable.

There are times during the period I've looked at that Mr M was overdrawn but given the general account conduct and what else Motonovo may have discovered, I don't think Mr M occasionally using his overdraft would've led to Motonovo declining his application.

There were no signs from the statements that either Mr M was having financial difficulties – such as returned payments or that he was constantly using his overdraft. So even if Motonovo had reviewed his account before agreeing to provide the finance then it would've likely concluded that Mr M was in a position to afford the agreement.

I am therefore not upholding Mr M's complaint because although a proportionate check wasn't carried out by Motonovo I'm not persuaded that such a check would've led it to conclude that the finance agreement was unaffordable for Mr M.

The latest statement of account shows that Mr M's account is currently in arrears, and I would remind Motonovo of its obligation or treat Mr M fairly and with forbearance with the repayment of the agreement. Either Mr M or his representative may wish to reach out to Motonovo to discuss this situation further.

Finally, I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think Motonovo lent irresponsibly to Mr M or otherwise treated him unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

My final decision

For the reasons I've outlined above, I am not upholding Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 14 February 2025.

Robert Walker
Ombudsman