

## **The complaint**

Mr S complains that FirstRand Bank Limited trading as Motonovo Finance (“Motonovo”) didn’t check to make sure the hire purchase agreement was affordable for him.

Mr S says that during the COVID-19 pandemic he also asked for a payment holiday, but he was only given a deferral for six weeks.

## **What happened**

In December 2015, Motonovo provided Mr S with a hire purchase agreement through a broker for a new van which had a retail price of £21,908.98. Mr S paid a deposit of £2,336.46 with the remaining balance of £19,572.52 to be financed. The agreement had fees and interest totalling £4,775. The total to repay under the agreement was £26,694.46. This agreement was to be repaid in 60 monthly repayments of £402.65. The agreement was repaid in July 2022.

Motonovo considered Mr S’s complaint and didn’t uphold it. Motonovo concluded adequate checks were conducted including carrying out a credit search which showed the agreement to be affordable. Unhappy with this response Mr S referred the complaint to the Financial Ombudsman.

Initially, Motonovo said Mr S had raised his complaint more than six years after the event complained about – the decision to provide the credit. However, it later waived its objection and so the merits of the complaint were considered by an investigator.

The merits were then reviewed and in the latest assessment they upheld the complaint. The investigator said further checks were needed because Mr S was self-employed and was taking on a new commitment that was costing him more than £400 per month for five years.

Had further checks been made, such as reviewing bank statements, then the investigator said it was likely Motonovo would’ve been aware that Mr S was spending most of his income each month on a mortgage, and all of his other living costs. Mr S had recently been lent over £13,000 from a family member. So, the investigator’s view was that the agreement wasn’t affordable.

Motonovo disagreed with the investigator’s outcome across a number of emails all of which I have read and considered.

The comments didn’t change the investigator’s assessment and so the complaint was passed to me, and I issued a provisional decision outlining why I wasn’t intending to uphold Mr S’s complaint. Both parties were asked to provide any further submissions for my consideration as soon as possible, but in any event, no later than 17 October 2024.

Neither Mr S nor Motonovo responded to or provided further comments in response to the provisional decision.

A copy of the provisional findings follows this in smaller font and forms part of this final decision.

### **What I said in the provisional decision**

*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 Mr S's complaint. Having carefully thought about everything I've been provided with; I'm intending not to uphold Mr S's complaint. I 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 S 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 it conducted the following checks before the agreement was approved;*

*"I can confirm that when we received your application, a hard credit search was conducted to assess your application against our lending criteria. Based on the information found, we were happy to accept you for the finance.  
The hard credit search reflected that at the time, your active credit accounts were three communication supplier accounts that were up to date with payments and had good payment histories."*

*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 S was having or likely having financial difficulties and echoes what I saw above and communicated in the final response.*

*There were no County Court Judgments, defaults, missed payments or anything else that may have alerted Motonovo that Mr S was having difficulties. Indeed, the results showed that he only had 4 active accounts – 1 current account and 3 "communication" actions which were likely to be mobile phones. The information given to Motonovo indicated Mr S was managing his existing credit accounts well. There weren't any flags in this information to suggest the agreement would be unaffordable.*

*So, while Motonovo had an idea that his existing debts were being well maintained, as far as I can see it didn't have any idea as to what Mr S's income was or indeed what his other living costs were. Without this information I can't fairly conclude that a proportionate check was conducted when Motonovo didn't appear to have an understanding of Mr S's income and expenditure.*

*Like the investigator, I do think that before the loan was approved, Motonovo needed to conduct further checks into Mr S's financial situation including trying to establish what his monthly income and outgoings were. It could've gone about doing this 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 S was able to afford his repayments.*

*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 S's likely monthly income and outgoings were. This wasn't and isn't intended to be conduct a full financial review – as I don't think that would've been warranted before Mr S entered the agreement.*

*Motonovo already knew that Mr S was self-employed, and he's supplied copies of his business account for around the time the agreement was entered into. This is the same account that as far as the notes from Motonovo show were "registered for this finance agreement...."*

*The business account does contain a number of direct debits and standing orders indicating that these are regular payments that Mr S was due to make. Looking in the months before the agreement was entered it to and these costs came to at least £1,100 per month – for things like mobile phone, insurance and the rent that Mr S has identified, and what I come on to discuss below.*

*There are of course, a number of other transactions, but these all appear to relate to the operation of Mr S's business such as payments for what appears to be contractors (or sub-contractors) as well as payments to tool and material suppliers. These all look to be what would be expected within the normal operation of a business account in the area that Mr S works in.*

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

*I think it would've been reasonable for Motonovo to have relied on the contents of the business account, because it was aware from the credit checks that Mr S didn't have lots of outstanding debt but even if it had asked to see his personal bank statements, I still don't think it would've likely concluded Mr S couldn't afford the repayments.*

*The personal accounts show once again minimal other costs apart from food and petrol. In addition, there also seems to be, within the personal account a number of payments that look to be connected with the running of Mr S's business – such as payments to what appear to be contractors. But as before, there wouldn't have been any flags for Motonovo to have been overly concerned about.*

*I understand that Mr S says that he received a number of payments from a family member – which were in effect loans to help his business out. I can see Mr S for example received £2,000 in November 2015 – from the family member with a further £12,500 being received in October 2015.*

*However, I'm not persuaded that even if Motonovo would've seen these payments that it would've automatically concluded that these were loans – indeed, I can see some of the money is moved into the business account but other amounts went towards paying contractors.*

*This isn't to say that these weren't loans from a family member for Mr S's business, only that I'm not persuaded, that a proportionate check would've highlighted these.*

*There were also some queries over a mortgage, I can see from Mr S's credit file that he does have a mortgage now but this wasn't started until a number of years after he entered into the agreement and so Motonovo can't have been expected to know about that.*

*Following his complaint, he had told both Motonovo and the investigator that he had a*

mortgage that was costing £660 per month – this was queried because a mortgage ought to have appeared within the credit search results, Motonovo received but none was visible. Following a request for further information, Mr S provided details of the payments that he says were payments to his parents to cover rent – and this does indeed reflect the information he gave the broker as part of his application. These amounts varied from anything between £680 and £300. So, I do think it's fair to say that Mr S was at the time living at home and didn't have mortgage, and clearly the amount he was contributing varied. I am therefore intending to not uphold Mr S'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 S.

### **Pandemic support**

At the start of the pandemic the industry regulator the Financial Conduct Authority (FCA) put in place guidance for all different types of lenders about the help and support that they were required to offer. But this support was time limited, temporary and only available in specific circumstances.

Having looked at the statement of account, I can see that Mr S had made all of his payments to Motonovo as he was expected to make up until March 2020 – which is when there were significant restrictions brought in by the government. So, it's clear that Mr S's repayment problems were caused by the pandemic.

The contact notes provided by Motonovo show it put Mr S on three-month payment deferrals which were agreed on 20 June 2020. I have read the contents of the email that Motonovo sent to Mr S and it has provided an accurate overview of the support the FCA put in place. The deferral was for three months and then at the end of the time Mr S would be expected to return to normal payments or be offered other support to help clear the payment arrears. This deferral was put in place for June, July and August 2020.

In July 2020 the FCA issued updated guidance which allowed lenders to extend the payment deferral for another three months – meaning that at a maximum Mr S could've received a six-month payment deferral.

Following the end of the payment deferral Motonovo attempt on a number of occasions through email and telephone call to engage with Mr S to find out what was happening and what other help and support that he may need. At this point it could've extended the payment deferral for another three months so for September, October and November 2020. It isn't clear why it didn't do this as this would've been in line with the FCA's guidance at the time.

However, notwithstanding this, I can see Motonovo attempted to speak to Mr S on a number of occasions throughout the end of 2020 and in 2021 – and when it wasn't able to it then proceeded to issue a notice of default due to non-payment on the account. I don't think these steps were unreasonable given that it was trying to find out from Mr S what his current financial position was and to what extent he needed help with paying the arrears that would've accrued on the account as a result of the payment deferral.

And the statement of account shows that payments restarted in May 2021, with Mr S making significant overpayments in the months that followed, in order to clear the arrears that had built up on the account.

I'm satisfied that initially, Motonovo offered appropriate support to Mr S in line with the time limited guidance issued by the FCA. And there was perhaps a chance for a further extension of the support – as allowed within the guidance for a further three months. But even if Motonovo had offered that further support, I don't think Mr S would've been in a materially different position than what he found himself in during 2021. I say this because he didn't restart payments until May 2021 and as such the arrears would've still been reported on the credit file – which is what happened.

*So, while, Motonovo could've provided a further three-month deferral it hasn't as far as I can see, materially impacted on Mr S because I think its unlikely he was able to return to full or partial contracted payments – given this didn't occur until much later and after the end of what would've been the full 6 month deferral.*

### **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.

As neither party has provided any further submissions, I see no reason to depart from the findings I reached in the provisional decision. I still don't think, for the reasons I've outlined above that Motonovo carried out sufficient checks before it entered into the agreement with Mr S. But even if it had made better checks, its decision to lend wouldn't have changed given the information I can see in the statements provided.

I am therefore not upholding Mr S's complaint and I make no award against Motonovo.

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 S 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 explained above and in the provisional decision, I'm not upholding Mr S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 22 November 2024.

Robert Walker  
**Ombudsman**