

## **The complaint**

Mr D is unhappy with the service provided by FirstRand Bank Limited trading as MotoNovo Finance ("MotoNovo") when he tried to terminate his finance agreement.

When I refer to what Mr D has said and what MotoNovo has said, it should also be taken to include things said on their behalf.

## **What happened**

In May 2017, Mr D was supplied with a used car through a Hire Purchase agreement with MotoNovo. The cash price of the car was £11,161 and, after accounting for part-exchange and interest fees, the agreement was payable in 59 instalments of £190.15 followed by a final payment of £349.15 and an option to purchase fee. The agreement term was for 61 months and set to end in July 2022.

Mr D said he contacted MotoNovo to ask to hand the car back in June 2020 and again in December 2020, but it didn't respond. In December 2023, Mr D asked about returning the car and MotoNovo gave him the option of a Voluntary Surrender (VS). He put his request for a VS in writing as required.

Mr D complained to MotoNovo. He said it:

- charged him £400 for taking the car back;
- failed to provide the correct paperwork setting out the terms and conditions of the VS;
- should've offered him a Voluntary Termination (VT) instead, and
- took the car back three years too late causing him to incur unnecessary costs.

MotoNovo responded to say that Mr D had only contacted it to authorise contact with a third party, after which VS was offered. MotoNovo said VS was the correct process because the agreement had ended and Mr D was unable to pay the outstanding balance. He would hand the car back and, after the sale of the car, the outstanding balance would be owed.

Mr D was unhappy with this response, so he referred his complaint to our service.

Our investigator said there was no evidence that Mr D had contacted MotoNovo during the three years he said he'd been trying to hand back the car. And when the VS was offered, there was no longer an agreement in place, so a VT wasn't an option unless the arrears were paid first. Our investigator said the additional charges hadn't been applied unfairly and, under regulations in place at the time, MotoNovo wouldn't have been able to take back the car forcefully despite the payment arrears. Therefore, our investigator didn't think MotoNovo had made an error in offering a VS or in its handling of the account.

Mr D didn't accept our investigator's view. He said his complaint about the paperwork had not been addressed and there was no acknowledgement that it wasn't the first time he'd contacted MotoNovo about handing back the car. Our investigator said the VS options were explained to Mr D so he wasn't persuaded that MotoNovo needed to have done any more.

Because Mr D didn't agree, this matter has been passed to me to make a final 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.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and what I consider was good industry practice at the time. Mr D was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we are able to investigate complaints about it.

Within the evidence provided by both Mr D and MotoNovo, I've noted elements of complaint not addressed here. For context, Mr D previously brought a complaint to this service about the way MotoNovo handled his payment arrears and its refusal to remove its finance interest in the car to enable him to sell it. This is a separate complaint, and the outcome has been communicated to both parties. Therefore, I will not address, here, any part of Mr D's complaint which has already been considered.

### Delay taking back the car

Mr D said MotoNovo should've taken back the car when he first asked it to three years before the VS, but MotoNovo denies receiving a request from him.

The account notes show that Mr D stopped engaging with MotoNovo for the three years prior to the VS. During that time, MotoNovo issued over 100 messages seeking payment and/or contact. I've looked at the content of the communication between Mr D and MotoNovo, but I haven't seen any evidence that he asked to hand back the car before December 2023. When Mr D did initiate contact, it was to seek a hold on payments, to agree reduced payments or, as in December 2023, to have the finance marker removed to allow him to sell the car. So I can't agree that Mr D asked it, or that MotoNovo failed, to take back the car sooner.

Mr D gave a summary of the costs he incurred while the car remained with him between 2020 and 2023. The costs are the usual running costs of a car. Given that there's no evidence Mr D asked to hand back the car, I see no reason for MotoNovo to contribute towards his running costs.

### Voluntary Termination

Mr D said MotoNovo should've offered him a VT rather than a VS. MotoNovo said the VS was the correct option in the circumstances.

When Mr D entered into the hire purchase agreement, he signed the documents which set out the terms and conditions. The circumstances under which a VT is available are detailed in the agreement under clause 7 – "*Your Right to End This Agreement*". In summary, Mr D would've needed to return the car and settle all arrears and other payments due under the agreement.

However, Mr D would've been entitled to a VT only during the term of the agreement. The agreement was for 61 months and ended in July 2022, albeit with arrears on the account.

Therefore, Mr D no longer had the right to a VT, so I don't find that MotoNovo did anything wrong by not offering it.

#### Voluntary Surrender

Mr D said MotoNovo failed to provide him with the relevant terms and conditions for the VS.

I've looked at the agreement and, while not listed as a VS, I see it explains what will happen if the agreement falls into arrears and the car is returned to MotoNovo. I've also considered the notes documented at the times the VS was discussed. On both occasions, MotoNovo discussed the process with the third party acting on behalf of Mr D. The third party said they wanted to return the car under the VS process because they had been unable to sell the car for an amount which, seemingly, was more than that offered under the VS.

The notes are detailed and I have no reason to doubt that the VS process was explained and understood. Therefore, I don't consider that there's anything for MotoNovo to put right here.

#### Additional charges

Mr D said MotoNovo added unreasonable charges of £400 to the account balance.

Under Clause 6 of the credit agreement, MotoNovo sets out its right to charge a reasonable sum in such circumstances where it recovers the car due to breach of the agreement. It references the tariffs applicable which are shown at the end of the agreement.

I've looked at the charges billed for taking back the car, which include recovery charges because the car did not have a valid MOT. I haven't seen anything in the charges documented to indicate that MotoNovo applied anything unreasonably or outside the terms of the credit agreement.

#### **My final decision**

For the reasons explained, I don't uphold Mr D's complaint about FirstRand Bank Limited trading as MotoNovo Finance.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 10 February 2025.

Debra Vaughan  
**Ombudsman**