

## **The complaint**

Miss P complains that MotoNovo Finance Limited (“MotoNovo”) didn’t check her personal and financial situation before it agreed to lend to her.

## **What happened**

In May 2020, MotoNovo provided Miss P with a hire purchase agreement through a credit intermediary for a vehicle with a retail price of £2,495. A £900 deposit was paid and so £1,595 was financed with £283.12 worth of interest to be added and a £1 purchase fee – the APR of the agreement was 5.76%.

Miss P was due to make 35 monthly repayments of £52.17 followed by a final payment of £53.17. Miss P had some problems repaying the agreement, but MotoNovo confirmed it had received all payments by October 2023.

MotoNovo acknowledged Miss P’s complaint but it wasn’t able to complete its investigation within the required timescales and so Miss P referred her complaint to the Financial Ombudsman.

Miss P’s complaint was considered by an investigator and they didn’t uphold the complaint saying given the amount advanced and the term MotoNovo carried out a proportionate check which showed the loan to be affordable.

Miss P didn’t agree with the investigator’s outcome, and she provided a number of reasons why. These comments didn’t change the investigator’s mind and so the complaint was passed to me to decide.

I then issued a provisional decision explaining the reasons why I was intending to uphold Miss P’s complaint. Both parties were asked to provide any further comments as soon as possible, but in any event, no later than 24 January 2025.

Miss P said she agreed with the provisional decision, and we didn’t hear from MotoNovo. A copy of the provisional findings follows this in smaller font and forms part of this final decision.

## **What I said in my provisional decision:**

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

*I want to start by saying that I’m not making a finding on or dealing with the issues that Miss P has had in relation to her data subject access request that she has told us is being dealt with by the ICO.*

*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 P’s complaint. Having carefully thought about everything I’ve been provided with and I’ve provisionally decided to uphold Miss P’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 Miss P 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.*

*Miss P has also raised arguments about the role of the dealer that saying that it gave misleading information about her circumstances to MotoNovo – both in terms of her income and her personal situation.*

*Miss P seems to be arguing that the motor dealer/broker provided a mis-leading picture to MotoNovo about her situation at the time the application for finance was made. If that is the case then the broker is the correct party to direct this complaint to. Indeed, I don't think that I can fairly or reasonably come to a conclusion on the actions of the broker without first having its version of events, which I've not yet had and will not have because Miss P has not complained to that party.*

*So, if Miss P has concerns about the actions of the dealer – as acting as a credit broker then she will need to approach it and raise her concerns. She may – subject to our relevant jurisdiction criteria being met – be able to refer matters here should she be unhappy with the broker's response. Most importantly, I wish to make it clear that I've not made any findings in relation to the action or inaction of the broker, which Miss P says she's unhappy about.*

*From the information provided in MotoNovo's file submission it seems to have been told that Miss P earned £22,000 per year – although it's not clear what if any checks it carried out to satisfy itself that Miss P did indeed earn this amount.*

*It also, doesn't seem to have taken any steps to work out or ask what, if any, day-to-day costs Miss P had. But, MotoNovo seems to be suggesting that the checks it carried out which included a credit search, led it to believing Miss P could afford her loan repayments. This may have been further reinforced given that Miss P's payments were modest at just over £52 per month.*

*MotoNovo, as part of its affordability assessment, carried out a credit search and it has provided a summary of the results it received from the credit reference agency. I want to add that although MotoNovo carried out a credit search there isn't a regulatory requirement to do one, let alone one to a specific standard. This can and does mean information which is given to a lender may be different to what a consumer can see by reviewing their own report. But what MotoNovo needed to do was consider the results it received.*

*The credit report MotoNovo received didn't show any defaults. But it did show that Miss P was using an overdraft, but that it had been well maintained and just because a prospective lender knows that a customer is using an overdraft that isn't enough, on its own to say the loan was unaffordable.*

*It also knew that Miss P had recently opened two mail order accounts, again both of these were within their limits and no adverse payment information was being recorded about them. It knew that Miss P had taken a loan out in July 2019 but she had, as with her other credit accounts, maintained her payments.*

*Finally, MotoNovo was told that Miss P had two credit cards. One had been well maintained*

*but the other was over the credit limit and Miss P had experienced problems maintaining the payments on the account. She hadn't made payments towards for the last two months. And four months before the finance she had also missed a payment. So, there was, at least on one credit card, recent adverse payment information – which could perhaps indicate that Miss P was having difficulties.*

*As far as I can see MotoNovo didn't conduct any checks into Miss P's income beyond obtaining a declaration or indeed what her 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 even the most basic of understanding of Miss P's income and expenditure. I think this was needed bearing in mind MotoNovo was given information which showed at least for one account that Miss P may have been having some repayment difficulties.*

*I do think that before the loan was approved, MotoNovo needed to conduct further checks into Miss P's financial situation including trying to establish what her 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 Miss P would be able to afford her repayments without any repayment difficulties. 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 Miss P's likely monthly income and outgoings were. This wasn't and isn't intended to be a full financial review – as I don't think that would've been warranted before Miss P entered the agreement.*

*Firstly, I think it's fair to say that Miss P's income wasn't anywhere near the £22,000 annual amount that MotoNovo believed. In the months leading up to the finance being approved, she was receiving a regular monthly payment from the employer MotoNovo knew of around £450 – although this amount did fluctuate. But I think it's fair to say that this is unlikely to be a full-time employment.*

*Especially, in light of the student loan payment of £2,800 which credited Miss P's account in April 2020. However, this wasn't paid monthly as it's the only entry on the bank statements between February and July 2020. Then in May 2020, Miss P starts to receive new benefits which further supports what she's explained about having a newborn at the time of obtaining the vehicle.*

*Miss P says her rent payments were around £900 per month, and I can see payments to that effect being made. Indeed, after the student loan payment was received, she paid two lots of £900. So, given what I've see I think it's fair to say that Miss P did have rent payments of £900 per month.*

*There are also other payments visible for mobile phone, credit card and catalogue shopping accounts as well as payments towards payday loans. Indeed, in the month before the agreement was entered into Miss P made payments of nearly £1,000 to such creditors. However, reviewing her outgoings would've made MotoNovo aware that Miss P was already struggling to make her existing creditor payments.*

*MotoNovo was aware from the credit file that Miss P was having difficulties paying a credit card – because the credit report it obtained showed the account was two months in arrears. However, the bank statements also showed difficulties making payments towards a mobile phone, as this contracted direct debit was returned twice in April 2020 and as per CONC 1.3 (4) than that is a sign of someone having financial difficulties. In addition, there were other returned direct debit payments to a catalogue shopping account.*

*So even though the monthly repayment Miss P was contracted to make was modest, in comparison to her income and her other living costs, I think a proportionate check would've*

*demonstrated to MotoNovo that Miss P wasn't in a position to afford her repayments and the finance ought to not have been granted.*

### **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 Miss P has accepted the findings I set out in the provisional decision, and we've not heard from MotoNovo, I see no reason to depart from the findings I made in the provisional decision and which I've set out above.

I still think MotoNovo ought to have carried out further checks before it granted finance to Miss P. Had it done so, it would've realised she wasn't in a position to take on the finance.

I've set out below what MotoNovo needs to do in order to put things right for Miss P.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed below results in fair compensation for Miss P in the circumstances of her complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

### **Putting things right**

Miss P made use of the credit facility MotoNovo provided, and she purchased a car with this. So, it's fair that she pays the car price. However, as MotoNovo shouldn't have approved her loan application, I don't think it's fair that she should pay any interest and charges. So, MotoNovo should refund these, with interest and I've set this out below.

- refund anything Miss P paid above the cash price of the car
- apply 8% simple yearly interest on the refund, calculated from the date Miss P made the overpayments to the date of the refund†;
- and remove all adverse entries relating to this agreement from Miss P's credit file.

†HM Revenue & Customs requires MotoNovo to take off tax from this interest. MotoNovo must give Miss P a certificate showing how much tax it has taken off if she asks for one.

### **My final decision**

For the reasons I've explained above and in the provisional decision, I'm upholding Miss P's complaint.

MotoNovo Finance Limited should put things right for Miss P as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 28 February 2025.

Robert Walker  
**Ombudsman**