

The complaint

Mr P is complaining about MotoNovo Finance Limited's decision to lend to him – he says the loan was unaffordable.

What happened

The background to this complaint is familiar to all parties, so I don't intend to repeat everything in detail here. Instead, I'll provide a summary.

In April 2023 Mr P acquired a vehicle financed by a hire-purchase agreement from MotoNovo. The cash price of the goods was £23,881.80. This was funded by a deposit of £5,000 and £18,881.80 in finance. The total amount repayable under the agreement was £29,497.80 to be repaid through 59 monthly repayments of £408.28, followed by a final monthly repayment of £409.28 (including an Option to Purchase Fee of £1 should Mr P wish to retain the vehicle).

Mr P – via a professional representative (PR) – complained about the decision to lend in November 2024.

MotoNovo issued its final response to this complaint in December 2024 in which it did not agree that it had acted unfairly.

Unhappy with MotoNovo's response to his complaint PR, on behalf of Mr P, referred the complaint to our service in January 2025.

One of our investigators reviewed Mr P's complaint and issued their opinion in April 2025. In doing so, they said MotoNovo had treated Mr P unfairly, and they recommended that the complaint be upheld. In short, our investigator found that MotoNovo did not carry out reasonable and proportionate checks prior to agreeing to lend and, if it had carried out such checks, it would have found the lending was unsustainable for Mr P.

In the weeks that followed there was some back and forth between our investigator, MotoNovo and PR, during which further submissions were provided. As a result, our investigator issued a second opinion in light of the further information. In doing so, our investigators overall opinion remained unchanged.

MotoNovo didn't agree with the investigator's findings. As an agreement couldn't be reached, the complaint was 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.

The Financial Ombudsman Service has set out its general approach to complaints about irresponsible and unaffordable lending on its website. And, having taken this into account along with everything else I need to consider, I uphold this complaint. I'll explain why.

The lending decision

MotoNovo needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr P could repay the loan repayments when they fell due and without the need to borrow further. These checks weren't prescriptive, but could take into account a number of different things such as how much was being lent, the repayment amounts and the consumer's income and expenditure.

So, in keeping with the information on the Financial Ombudsman Service's website, I think there are a number of overarching questions I need to consider when deciding a fair and reasonable outcome given the circumstances of this complaint:

1. Did MotoNovo carry out reasonable and proportionate checks to satisfy itself that Mr P was likely to have been able to repay the borrowing in a sustainable way?
 - i. If MotoNovo carried out such checks, did it lend to Mr P responsibly using the information it had?
 - Or
 - ii. If MotoNovo didn't carry out such checks, would appropriate checks have demonstrated that Mr P was unlikely to have been able to repay the borrowing in a sustainable way?
2. If relevant, did Mr P lose out as a result of MotoNovo's decision to lend to him?
3. Did MotoNovo act unfairly or unreasonably in some other way?

Did MotoNovo carry out reasonable and proportionate checks?

There are many factors that could be relevant when determining how detailed proportionate checks should have been. And while much will depend on the circumstances in question, the more obvious factors include – though aren't necessarily limited to:

- The type of credit Mr P was applying for along with the size, length and cost of the borrowing; and
- Mr P's financial circumstances – which included his financial history and outlook along with his situation as it was, including signs of vulnerability and/or financial difficulty.

And generally speaking, I think reasonable and proportionate checks ought to have been more thorough:

- The lower an applicant's income because it could be more difficult to make the repayments as a result; and
- The higher the amount repayable because it could be more difficult to meet a higher repayment, especially from a lower level of income; and
- The longer the loan term, because the total cost of the credit was likely to have been greater given the longer time over which repayments have to be made.

As a result, the circumstances in which it was reasonable to conclude that a less detailed affordability assessment was proportionate strike me as being more likely to be limited to applicants whose financial situation was stable and whose borrowing was relatively insignificant and short-lived – especially in the early stages of a lending relationship. I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mr P's complaint.

Prior to agreeing to lend, MotoNovo asked Mr P to declare his income, employment status, marital status and residential status. Mr P declared he was married, a private tenant, and was a self-employed delivery driver with an annual income of £40,000.

MotoNovo also carried out a credit search with a credit reference agency. MotoNovo has provided a copy of the results from this check which showed Mr P had one credit card with a balance of £3,772 (against a limit of £4,950) and an unsecured loan with a balance of £10,834 (with a monthly repayment of £174) in terms of active credit commitments. The results also showed Mr P had no defaults, county court judgments (CCJs), or insolvency information registered against him.

Based on the information it obtained from these checks, MotoNovo agreed to lend.

Here though, I'm not persuaded the level of checks MotoNovo carried out were proportionate.

I say this because the loan was not insignificant relative to what MotoNovo understood to be Mr P's income. Indeed, he was set to commit around a sixth of his net monthly income to repay that sum over a significant period of time (60 months).

In my view, MotoNovo was required to take reasonable steps to check he could do so in a sustainable manner, in other words while meeting his usual living costs and without having to borrow from elsewhere or go without. However, MotoNovo didn't independently verify Mr P's income or find out what his usual living costs were (aside from his existing credit commitments)¹.

Here, I turn to the regulators guidance known as the Consumer Credit Sourcebook (CONC), which was applicable at the time of sale. CONC 5.2A.16(3)G states: "For the purpose of considering the customer's income under CONC 5.2A.15R, it is not generally sufficient to rely on a statement of current income made by the customer without independent evidence..."

Moreover, CONC 5.2A.17R requires that a firm "must make reasonable steps to determine the amount, or make a reasonable estimate, of the customer's current non-discretionary expenditure..." I've noted the credit search shows what Mr P's monthly credit commitments were. But I've seen no further checks which would enable me to conclude MotoNovo took reasonable steps to determine or estimate Mr P's other expenditure.

Taking all of this into consideration, I think reasonable and proportionate checks would include MotoNovo obtaining a more detailed understanding of Mr P's financial situation. In other words, I think MotoNovo needed to do more to ensure it had a proper understanding of Mr P's overall financial situation to be satisfied he could afford the loan sustainably for the next five years. I think such checks were not only proportionate but also necessary to

¹ I note MotoNovo completed an open banking manual check prior to agreeing to lend. However, it seems the purpose of this was to confirm the account from which the Direct Debit was to be deducted was held by Mr P because the account Mr P had provided MotoNovo didn't match the name on the agreement. So, it doesn't seem the open banking check was aimed at gathering any insight into Mr P's income and/or expenditure.

determining whether the loan in question was likely to prove repayable on a sustainable basis.

I've thought about the overall circumstances in which the application was made and, having done so, I don't think the checks MotoNovo carried out were reasonable and proportionate.

Would reasonable and proportionate checks have demonstrated that Mr P was likely to have been able to repay the borrowing in a sustainable way?

It isn't possible to determine with certainty what reasonable and proportionate checks would have shown MotoNovo in practice as I don't know what checks it would have decided to carry out if it had its time again.

As a result, what I'm considering here is the likelihood of reasonable and proportionate checks showing MotoNovo that Mr P would have been able to sustainably repay the borrowing in question. And for that reason, it is necessary to now consider information that MotoNovo hadn't considered in April 2023.

MotoNovo could have obtained a deeper understanding of Mr P's financial circumstances by asking for her bank statements, for example.

Mr P has provided bank statements covering the period 30 January 2023 to 28 April 2023. For the purposes of this decision, I will review the bank statements covering the period 1 February 2023 to 30 March 2023 – as this represents the two full months before Mr P applied for the lending in question (I will refer to this as the 'Relevant Period'). I think this would have given MotoNovo a good understanding of Mr P's overall financial circumstances. I accept that something that we can now see from the information Mr P has provided wouldn't necessarily have been disclosed by whatever reasonable and proportionate checks MotoNovo might have decided to carry out. But, in the absence of anything else from MotoNovo, I don't currently think it's unreasonable to rely on Mr P's bank statements when determining what his financial circumstances were likely to have been like before he applied for this loan.

Having looked at the bank statements during the Relevant Period, I can see that Mr P received his salary – which he transferred from his business account – and Working Tax Credits in terms of regular income. On average, this income equated to around £2,333 per month.

I note that, during the Relevant Period, there were a number of payments received from other sources. These payments were sporadic and varied in value. Mr P has confirmed that one of these payments was from a family member who was helping him cover bills. The remainder were transfers in from Mr P's savings account. Mr P has provided a statement of his savings account – which had a near-zero balance at the time of the application – as evidence of this. With this being the case, I have not considered these additional receipts as reliable streams of income going forwards.

This means that the repayments under the agreement accounted for around 17.5% of Mr P's monthly income. While this, in and of itself, doesn't raise concerns, I think it would have been proportionate for MotoNovo to have found out more about Mr P's committed expenditure, such as his living costs to ensure he could afford to sustainably repay the new agreement as well as his existing commitments.

The bank statements do also, more clearly, reveal some of Mr P's regular outgoings over the Relevant Period, largely by Direct Debit, totalling around £1,410 – including average payments of roughly:

Rent	£895
Energy bill	£100
Water bill	£33
TV	£110
TV Licencing	£10
Loan	£175
Credit Card	£87

I have seen no evidence to suggest Mr P received any regular contribution from another party towards any of these bills, even if some of them were jointly held. Therefore, it would seem reasonable to include the above as part of Mr P's ongoing regular outgoings.

However, the statements do not show payments to some of the bills and costs one might expect to see such as, food and Council Tax².

I note, as our investigator did, that Mr P made a regular payment to his wife's account each month, shortly after drawing his income from his business. These payments averaged £1,075 during the Relevant Period. Mr P also transferred half of his Working Tax Credit shortly after receipt to his wife every month (a total of £134.27) during the Relevant Period.

Our investigator asked Mr P about this, and he explained these payments were to pay for, amongst other things, Council Tax, food and clothes.

Mr P has provided screenshots evidencing his (and his wife's) Council Tax liability for the year 2023/2024. This equated to £200 per month. Assuming a 50/50 split between Mr P and his wife, this means Mr P was liable for around £100 per month.

It would seem disproportionate to include the entire figure Mr P was transferring to his wife (£1,209.27) every month as part of his regular committed expenditure. After all, it is possible some of this was used for discretionary expenditure. I wouldn't expect MotoNovo to have reviewed his wife's bank statements to understand how much of this figure was used to cover regular expenditure - that would seem disproportionate in the circumstances. However, I have seen the bank statements and it seems, of the total figure transferred, Mr P was contributing around £520 towards food and living costs. In the absence of evidence to suggest otherwise, I think if MotoNovo had asked Mr P he would have declared this figure.

Deducting Mr P's committed expenditure evidenced on his bank statements, as well as his contribution towards Council Tax and his contribution towards food and living costs, it looks like Mr P expenditure totalled £2,030. Once the repayments for the lending in question (£408.28) are included, it would seem Mr P's expenditure was more than his income. So, I don't think the agreement was affordable for Mr P.

MotoNovo argue that Mr P was only in possession of the vehicle (and therefore subject to the terms of the hire-purchase agreement) for a few months – during in which time he did not have difficulty making repayments - before part-exchanging the van and settling the agreement. Therefore, it says that there is *not enough history behind this transaction for us to confidently determine the agreement was to the customers detriment*.

Whilst I understand MotoNovo's perspective here, I don't agree that the fact Mr P made repayments on time makes a material difference to whether the lending decision was fair. Even when borrowing is unsustainable, a consumer can sometimes make repayments for a

² It looks like Mr P's mobile phone bill and various insurances were paid through his business account.

short period without undue hardship or by – for example - relying on money from other sources such as family members or friends. So I don't think the fact Mr P made the repayments as and when they fell due (albeit noting the agreement only ran for a few months) makes a difference to the outcome I've reached here.

Similarly, I do not think what Mr P decided to do post-sale makes a difference either. After all, MotoNovo did not know, at the time it approved the lending, that Mr P intended to settle it within a few months. Ultimately, MotoNovo had to satisfy itself that Mr P would have been able to affordably and sustainably repay the lending throughout the life of the agreement. And, for the reasons I've explained, I don't think it did that.

Did MotoNovo act unfairly in some other way?

In reaching my conclusions, I've also considered whether the lending relationship between MotoNovo and Mr P might have been unfair to Mr P under s140A of the Consumer Credit Act 1974.

However, I'm satisfied that what I direct MotoNovo to do in the section below results in fair compensation for Mr P given the overall circumstances of his complaint. For the reasons I've explained, I'm also satisfied that, based on what I've seen, no additional award is appropriate in this case.

Putting things right

As I don't think MotoNovo should have approved the lending, it's not fair for them to charge any interest or other charges under the agreement. Mr P should only have to pay the original cash price of the car, this being £23,881.80 according to the hire purchase agreement. Anything Mr P has paid in excess of that amount should be refunded as an overpayment.

To settle Mr P's complaint, MotoNovo should do the following:

- Refund any payments Mr P has made in excess of £23,881.80, representing the original cash price of the car. They should add 8% simple interest per year from the date of each overpayment to the date of settlement.
- Remove any adverse information recorded on Mr P's credit file regarding the agreement.

If MotoNovo consider tax should be deducted from the interest element of my award they should provide Mr P a certificate showing how much they've taken off so that Mr P can reclaim that amount, assuming he is eligible to do so.

My final decision

For the reasons I've explained, my final decision is that I uphold this complaint. To resolve matters MotoNovo must take the steps I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 8 October 2025.

Ross Phillips
Ombudsman