

The complaint

Mr O says FirstRand Bank Limited trading as Motonovo Finance, irresponsibly lent to him.

He says that it didn't take reasonable steps to ensure he could afford the repayments towards a hire purchase agreement to purchase a car, and a related personal loan. He says that he couldn't afford the repayments to the lending, and he relied on friends and family.

Mr O's complaint has been brought by a representative and I've referred to Mr O and the representatives' comments as being from Mr O for ease of reading.

What happened

Our Investigator thought the complaint should be partially upheld. Mr O disagreed with the Investigator's opinion. The complaint was then passed to me.

I issued my provisional decision saying that Mr O's complaint should be upheld. A copy of the background to the complaint and my provisional findings are below in italics and form part of this final decision.

What I said in my provisional decision:

This complaint is about a hire purchase agreement that Mr O took out to purchase a car in January 2017. The vehicle had a retail price of £7,450 and Mr O financed all of this.

Mr O also started a personal loan at the same time, and on the same terms, as the hire purchase agreement. He borrowed £4,252.85. I understand that this was to pay for the negative equity he had on a previous car finance arrangement. Making the total he borrowed to be £11,702.85

These agreements were to be repaid through 59 monthly instalments of £262.75 followed by a final repayment of £507.75. £168.83 of the repayment went towards the hire purchase agreement and £93.93 went towards the personal loan.

If Mr O made repayments in line with the credit agreement, he would need to repay a total of £16,010. £10,374.80 was for the hire purchase and £5,635.20 was for the personal loan.

The agreement was voluntarily terminated in March 2020.

Mr O complained to Motonovo saying that, at the time, he couldn't repay the finance and the loan as he wasn't employed. He thought that if Motonovo had made better checks it would have seen this and not lent to him.

Motonovo considered this complaint, and it didn't uphold it. It said it'd done reasonable and proportionate checks, which showed that Mr O could afford the lending. Mr O didn't agree with this and brought his complaint to the Financial Ombudsman Service.

Our Investigator upheld Mr O's complaint about the car finance. He thought the loan shouldn't have been approved as Motonovo didn't make proportionate checks. If it had made proportionate checks it would've seen that the finance repayments weren't likely to be sustainably affordable.

Our Investigator didn't think it was right to recommend any compensation in respect of the personal loan part of the lending, as she thought Mr O would have needed to pay this in any event.

Motonovo didn't agree with the Investigator. It said that Mr O was able to make the loan repayments reasonably, until the agreement was terminated. He submitted a further finance application in 2017 and his credit cards had a zero balance at this time.

Motonovo also noted that Mr O had said at the time of sale that he needed the vehicle for his new employment which, given the way he managed the finance, did seem to provide a stable income. So, the finance was likely to be affordable for him, or to have become affordable for him, over the long term.

And Mr O didn't agree with the Investigator. He thought that both the hire purchase and the personal loan were irresponsibly lent. He said that his family paid for the finance at times until he could secure full time employment.

There was some further correspondence, but no new issues were raised. Because Mr O and Motonovo didn't agree, this matter has been passed to me to make a final decision.

What I've provisionally 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.

When someone complains about irresponsible and/or unaffordable lending, there are two overarching questions I need to consider when deciding what's fair and reasonable in all of the circumstances of the complaint. These are:

- 1. Did Motonovo complete reasonable and proportionate checks to satisfy itself that Mr O would be able to repay the credit in a sustainable way?*
 - a. if so, did Motonovo make a fair lending decision?*
 - b. if not, would reasonable and proportionate checks have shown that Mr O could sustainably repay the borrowing?*
- 2. Did Motonovo act unfairly or unreasonably in some other way?*

And, if I determine that Motonovo didn't act fairly and reasonably when considering Mr O's application, I'll also consider what I think is a fair way to put things right.

Did Motonovo complete reasonable and proportionate checks to satisfy itself that Mr O would be able to repay the credit in a sustainable way?

There's no set list for what reasonable and proportionate checks are, but I'd expect lenders to consider things such as the amount, duration, and payments of the finance being applied for, as well as the borrowers' personal circumstances at the time of each application.

Motonovo has explained that it asked Mr O about his situation at the time of sale. The application information shows that he told it that he was self-employed and living with his parents.

Motonovo also looked at some credit reference agency information. This showed that he had an active current account with a £2,000 overdraft limit. He was over the limit of this at the time the credit was started. He also had two credit card accounts with a combined credit limit of £7,440 and he'd borrowed around £5,114 on these. Motonovo was also made aware that Mr O had taken out 23 payday loans in 2015.

Mr O also had an existing hire purchase agreement to which he was paying about £400 a month to. The starting balance of this was about £19,000 in 2015. This agreement would be settled as part of the new agreement with Motonovo. I understand that Mr O wanted to end this agreement to purchase a van for his new business, but it also seems likely that the repayments were too large as they were more than his current income.

It was also made aware that Mr O had no missed payments or new defaults recorded on his credit file within the previous twelve months, and there was no other adverse information about his ability to repay credit.

But, as far as I can see, Motonovo didn't ask Mr O for any further information, and it didn't find out at all what his income and expenditure was. But this was a long-term lending agreement and Mr O would be repaying a reasonable amount each month for the five year term. So Motonovo should really have considered in more detail what his income and expenditure were to ensure he could sustainably repay the loan. It doesn't seem to have done this at all, other than looking at what was on his credit file.

So, I'm not persuaded that the checks Motonovo did were reasonable and proportionate. I think Motonovo could have checked in more detail that this further lending wasn't likely to cause him a problem going forward.

Would reasonable and proportionate checks have shown that Mr O would be able to repay the credit in a sustainable way?

I've gone on to consider what Motonovo would likely have found had reasonable and proportionate checks been carried out.

Mr O has provided copies of his bank statements for a few months before the lending. While I wouldn't have expected Motonovo to have asked Mr O for copies of these, I'm satisfied that these statements would give a good indication of what Motonovo would likely have taken into consideration had it asked Mr O to verify, or provide more information about, his income and committed expenditure during that specific period.

The most important aspect of the bank statements is that they show that Mr O wasn't working at the time the credit was arranged. And in the months running up to the agreement of the credit, his benefit income was around £250 a month.

Added to this he was receiving deposits from what look to be his friends and family and he had taken on a larger high cost credit loan.

I think it's clear that Mr O wasn't living within his means at the time the agreement was arranged, and I think this makes it unlikely that Mr O would be able to sustainably repay the new credit. And Motonovo would have seen this if it had made proportionate checks and so it now needs to put things right.

Our Investigator thought that compensation for this irresponsible lending shouldn't include the personal loan element of the credit. But I don't agree with this. Whilst this may have been used to repay some negative equity on an existing finance commitment it was still lent irresponsibly and I think the compensation should encompass this. And whilst I agree he should repay the principal, as he did owe this money, Mr O shouldn't have paid any interest or charges.

Motonovo's main objection to what our Investigator said were various submissions along the lines that Mr O repaid the finance without significant problems. And that he wanted the vehicle to start a business, which he did go on to do.

But this doesn't really alter the fact that, at the time of sale, Mr O wasn't in a position to sustainably repay the finance as he didn't have any income to do this. And whilst he may have gone on to start a business this was uncertain at the time the credit was arranged and it isn't fair to say, because Mr O's circumstances may have improved, the lending was responsible at the time it was arranged.

I think Mr O's complaint should be upheld in respect of all of the credit.

Did Motonovo act unfairly or unreasonably in some other way?

I've considered whether the relationship between Mr O and Motonovo might have been unfair under section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have provisionally directed should be carried out for Mr O results in fair compensation for him in the circumstances of this complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

Developments

Motonovo, and Mr O, received my provisional decision. Both parties agreed with what I said but there were some queries about the redress which I will address below. Motonovo hasn't responded to the clarification I provided about how the compensation should be calculated.

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 O requested that a calculation of the compensation be provided, and some information about the timescales for payment of any compensation. I provided some of this information earlier. And I agree that a compensation calculation should be provided.

Motonovo provided some information that it said showed Mr O hadn't suffered a loss. It said the cash price of the vehicle was £7,450, and that Mr O had made total payments of £6,676.43. But this didn't include the sale proceeds of the vehicle of £3,405, which were received by Motonovo on 31 March 2020. I think this should be included in the compensation as an amount Mr O has paid as MotoNovo received this amount. The redress should now be calculated and paid taking this into account.

Motonovo also said that, in respect of the personal loan, Mr O may not have suffered a loss. He borrowed £4,252.85 for this and he has paid £3,195.07. So, no compensation was payable for this element of the lending. Looking at the account statement this does seem to be correct as Mr O received a rebate at the end which meant he paid less than the amount borrowed for the personal loan.

Taking all of this into consideration I still think this complaint should be upheld and Mr O should be paid compensation as I said.

Putting things right

Mr O made use of the credit facility Motonovo provided, and he purchased a car and used the loan to repay a credit balance he already had. So, it's fair that he repays the car price and the amount of the loan he took. However, Motonovo shouldn't have approved the finance and the loan application. So, I don't think it's fair that he should pay any interest and charges on both these elements of the lending.

Motonovo should:

- Refund anything Mr O paid above the cash price of the car, which should include the amount MotoNovo received from the sale of the car when the agreement ended.
- Refund anything he paid above the amount borrowed for the personal loan (as above this may be zero).

- Apply 8% simple yearly interest on the refunds, calculated from the date Mr O made the overpayments to the date of the refund[†].
- Remove all adverse entries relating to this agreement from Mr O's credit file.

[†]HM Revenue & Customs requires Motonovo to take off tax from this interest. Motonovo must give Mr O a certificate showing how much tax they've taken off if he asks for one.

MotoNovo should provide information to Mr O about how the compensation has been calculated.

My final decision

Your text here

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 9 December 2025.

Andy Burlinson
Ombudsman