

Complaint

Mrs D complains that FirstRand Bank Limited (trading as “MotoNovo” Finance) unfairly entered into a hire-purchase agreement with her. She’s said the payments to her agreement were unaffordable.

Background

In April 2019, MotoNovo provided Mrs D with finance for a used car. The cash price of the vehicle was £5,039.00. Mrs D paid a deposit of £100 received a part exchange of £500 for her previous vehicle and entered into a 48-month hire-purchase agreement with MotoNovo to cover the remaining £4,439.00.

The loan had interest, fees and total charges of £1,656.64 (comprising of interest of £1,298.64, an admin fee A of £199, an admin fee B of £149 and an option to purchase fee of £10), and the total amount to be repaid of £6,095.64 (not including Mrs D’s deposit) was due to be repaid in 47 monthly instalments of £123.68 and then 1 final payment of £282.68.

Mrs D’s complaint was considered by one of our investigators. He didn’t think that MotoNovo had done anything wrong or treated Mrs D unfairly. So he didn’t recommend that Mrs D’s complaint should be upheld.

Mrs D disagreed with our investigator and the complaint was passed to an ombudsman for a final decision.

My findings

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 Mrs D’s complaint.

Having carefully thought about everything I’ve been provided with, I’m not upholding Mrs D’s complaint. I’d like to explain why in a little more detail.

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 Mrs D could make her payments in a sustainable manner before agreeing to lend to her. And if the checks MotoNovo carried out weren’t sufficient, I then need to consider what reasonable and proportionate checks are likely to have shown.

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 has provided us with various bits of information. But it hasn't really explained what exactly it was it did before agreeing that it was reasonable to lend to Mrs D. However, given the information provided, it seems to me that MotoNovo agreed to this application after it asked Mrs D to provide details of her monthly income and it decided to carry out credit searches on Mrs D. The credit searches showed up that Mrs D had some adverse credit information on her credit file but this was historic as it was almost five years prior to this application. There was also some existing credit but this was for low amounts and being relatively well maintained.

MotoNovo says that the information it had at the time indicated that the monthly payments on this agreement were affordable for Mrs D. On the other hand, Mrs D says that she couldn't have afforded this.

I've thought about what Mrs D and MotoNovo have said.

The first thing for me to say is that much like our investigator, I don't think that the checks MotoNovo carried out did go far enough. In my view, MotoNovo needed to take further steps to ascertain Mrs D's actual living costs, given the length of this agreement in order for its checks to have been proportionate. I've not seen anything to indicate that Mrs D was asked for further information to confirm her living costs prior to this finance being agreed.

As MotoNovo didn't carry out sufficient checks, I've gone on to decide what I think MotoNovo is more likely than not to have seen had it obtained further information from Mrs D. As I've explained bearing in mind the length of the term of the agreement and the amount of the monthly payment, I would have expected MotoNovo to have had a reasonable understanding about Mrs D's regular living expenses as well as her income and existing credit commitments.

To be clear I'm not going to carry out a forensic analysis of whether the loan payments were affordable. I'm simply going to consider what MotoNovo is likely to have done if it obtained the missing information I think it should have done here. I say this because this information provided does appear to show that when Mrs D's committed regular living expenses are deducted from her credit commitments, MotoNovo was more likely that not to have concluded that Mrs D could sustainably make the repayments due under this agreement.

I accept it's possible that Mrs D's actual circumstances at the time might have been worse than what the information she's provided shows. But MotoNovo won't have known this. All it could do was make a decision based on what it had, or is likely to have had, had it done proportionate checks.

Having considered everything, I'm satisfied that the available information indicates that MotoNovo is likely to conclude that Mrs D did have sufficient funds left over, once her regular living expenses and discernible committed expenditure was deducted from her monthly income, to make her monthly payments in a sustainable manner.

Therefore, while I don't think that MotoNovo's checks before entering into this hire purchase agreement with Mrs D did go far enough, I'm satisfied that carrying out reasonable and proportionate checks won't have prevented MotoNovo from providing these funds, or entering into this hire-purchase agreement with Mrs D.

I have thought about what Mrs D has said about the costs of the loan being high and not being told about the interest rate. However, the information regarding the cost of the agreement, which is set in the background section of this final decision, as well as the interest rate of 17.4% APR is taken directly from the credit agreement Mrs D signed.

The funds were only released to Mrs D's motor dealer after she signed the agreement and agreed to be bound by its terms. So I think that Mrs D was notified of the costs of the agreement before she entered into it. And it while she might now consider the cost to be high, I can only presume that Mrs D found these terms acceptable and that is why she chose to proceed with the agreement.

Overall and having carefully considered everything, I'm satisfied that MotoNovo didn't act unfairly towards Mrs D when it agreed to provide the funds and I'm not upholding Mrs D's complaint. I appreciate that this will be very disappointing for Mrs D. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

My final decision

My final decision is that I'm not upholding Mrs D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 15 April 2024.

Jeshen Narayanan
Ombudsman