

## **The complaint**

Ms C complains about a sum of money MotoNovo Finance Limited ("MotoNovo") is trying to seek the recovery of from her under a hire purchase agreement ("agreement") she entered into with it for a used car.

## **What happened**

On 25 June 2020 Ms C entered in an agreement with MotoNovo for a used car costing £23,061.00.

Under the terms of the agreement, everything else being equal, Ms C undertook to make a payment of £11,333.00 to the supplying dealership (£4,333.00 cash £7,000.00 part exchange) and £14,015.80 to MotoNovo (59 monthly payments of £233.58 and 1 monthly payment of £234.58) making a total repayable of £25,348.80 at an APR of 7.5%.

On 9 September 2022 MotoNovo sent Ms C, at her request, details of what she needed to pay to settle her agreement early (£7,259.11).

On 22 September 2022 Ms C sent MotoNovo a promissory note for the sum of £7,259.11 dated 15 September 2022, which was received by it.

MotoNovo refused to accept Ms C's promissory note as (early) repayment of her agreement and since its receipt (and later destruction) it has been pursuing her for payment as well as reporting her agreement as being in arrears with one or more credit reference agencies.

Ms C complains that:

- she has settled her agreement liability with MotoNovo in full
- MotoNovo hasn't returned her promissory note, or provided evidence of its destruction
- MotoNovo has no right to record her agreement (with one or more credit reference agencies) as being in arrears as full payment has been made
- MotoNovo has no right to record her agreement (with one or more credit reference agencies) because permission for the same has been revoked by her

In support of her complaint Ms C has referenced, amongst other things, various case and statute law.

MotoNovo accepted at times its service had been poor, for which it paid Ms C £75. But it said that it was satisfied that Ms C hadn't settled her agreement with it, her agreement was in arrears and these arrears had been accurately and appropriately reported to one or more credit reference agencies.

Ms C's complaint was considered by one of our investigators who came to the view that it shouldn't be upheld.

Ms C didn't agree and so her complaint was passed to me for review and decision.

I issued a provisional decision on this case in July 2023. In summary I said:

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

*In considering what is fair and reasonable, I need to have regard to the relevant law. However, as an informal alternative to the courts, although I must consider the relevant law I'm not bound by it. In other words, I can come to a different outcome to what a court might come to.*

*It's clear that Ms C has very strong feelings about this complaint. She has provided detailed submissions in support of her view which I can confirm I've read and considered in their entirety. However, I trust that Ms C will not take the fact that my findings focus on what I consider to be the central issues, and that they are expressed in considerably less detail, as a discourtesy. The purpose of my decision isn't to address every point raised. The purpose of my decision is to set out my conclusions and reasons for reaching them.*

*Ms C says that she has, for various reasons, settled her agreement liability with MotoNovo in full. But I don't agree. A promissory note isn't legal tender. It isn't money at all. It's simply a promise to pay a sum at some unspecified future date. MotoNovo already has such a promise in the form of the agreement Ms C signed, so another promise doesn't add anything.*

*Ms C has referred to case and statute law on promissory notes. But I'm afraid they don't say what she says they do. Where a creditor agrees to accept a promissory note, the debtor is legally required to pay it. But a creditor isn't obliged to accept it instead of actual payment. A creditor is also under no obligation to confirm its acceptance or rejection of a promissory note within any set timescale.*

*MotoNovo lent Ms C money. She agreed to repay. It's fair and reasonable, in my view, for MotoNovo to expect her to do so. She's already promised to repay the debt on the terms agreed. Making a further promise to pay isn't a substitute for actually doing so, and MotoNovo isn't required to treat it as such.*

*Given what I say above, I can confirm that I'm satisfied that Ms C hasn't settled her agreement with MotoNovo and she still owes it money. I'm also satisfied that having made no payments under the agreement since before she sent MotoNovo her promissory note Ms C's agreement with MotoNovo is in arrears.*

*Because I'm of the view that Ms C's agreement is in arrears it follows that what MotoNovo has reported to one or more credit reference agencies isn't inaccurate. I would also add that Ms C agreed to such reporting when she entered into the agreement with MotoNovo, and this can't be subsequently withdrawn or varied. However, Ms C is free to add a note of correction to each of her credit reports if she wishes to do so.*

*Now I accept that Ms C would have liked the promissory note returned to her, but I'm not persuaded she has been prejudiced by it not having been – particularly given it isn't worth any money. But if later transpires that it hasn't been destroyed as MotoNovo submits (a submission that I find to be both plausible and persuasive) then Ms C is free to raise a new and separate complaint in this respect, first with MotoNovo and then our service.*

*I appreciate Ms C will be disappointed by my decision. But she is free to reject it and free to raise her concerns, issues and arguments legally through the courts.*

Neither party responded to my provisional findings by the date I gave for the same.

**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 neither party responded to my provisional findings I can confirm I see no reason to depart from them and I now confirm them as final.

**My final decision**

My final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 29 August 2023.

Peter Cook  
**Ombudsman**