

The complaint

Mr S complains MotoNovo Finance Limited (MotoNovo) acted irresponsibly when they entered into a Conditional Sale agreement with him as he said the lending was unaffordable.

What happened

In February 2020, Mr S acquired a van under a Conditional Sale agreement with MotoNovo. The purchase price of the vehicle was £14,684. Mr S part exchanged his existing vehicle with the new finance agreement settling any outstanding finance he had. He also paid a deposit payment made up of cash and a personal loan. With interest charges this meant the total amount to be repaid over the term of the agreement was £26,305.60, payable in 60 monthly instalments of £395.13.

Mr S complained that the agreement was unaffordable and so should never have been provided to him. MotoNovo didn't uphold the complaint. They said they based their lending decision on the information Mr S provided at the time, and credit checks which confirmed that the finance was affordable and so it was reasonable to lend.

Mr S wasn't happy with MotoNovo's response and referred his complaint to us.

Our investigator said MotoNovo hadn't done proportionate checks but if they had they would have still lent to him as Mr S had sufficient disposable income to show the lending was affordable.

Mr S didn't agree he said his expenditure hadn't been fully considered by our investigator and asked for an ombudsman 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.

Having done so I'm not upholding this complaint. I'll explain why.

All lenders are required to ensure they don't lend irresponsibly. I've considered the relevant rules, guidance and good industry practice when someone complains about irresponsible and/or unaffordable lending. In reaching my decision there are two overarching questions I need to consider in order to decide 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 themselves that Mr S 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 S could sustainably repay the borrowing?

2. Did MotoNovo act unfairly or unreasonably in some other way?

Regulations in place at the time MotoNovo lent to Mr S required them to carry out a reasonable assessment of whether he could afford to repay the loan in a sustainable manner. This is sometimes referred to as an “affordability assessment” or “affordability check”.

The affordability checks should be “borrower-focused”, meaning MotoNovo need to think about whether repaying the loan sustainably would cause difficulties or adverse consequences for Mr S. In other words, it wasn’t enough for MotoNovo to think only about the likelihood that they would get their money back without considering the impact of repayment on Mr S himself.

There’s no set list for what reasonable and proportionate checks are. But I’d expect lenders to consider the specific circumstances of the loan application. What constitutes a proportionate affordability check will generally depend on several factors such as the specific circumstances of the borrower, their financial history, current situation and whether there are any indications of vulnerability or financial difficulty.

From what I can see MotoNovo relied on data and a score matrix to assess whether the loan was affordable for Mr S. I haven’t seen that there was any verification of Mr S’ income and expenditure. Given the level of indebtedness – over £20,000 and the length of time the loan was taken out 60 months I think it would have been proportionate and reasonable for MotoNovo to have done this.

So I’ve considered what MotoNovo would have seen of they’d verified Mr S’ income and expenditure and whether this would have made a difference to their decision to lend to him.

Mr S said at the time of the loan he was living with his ex-partner and their four children. And he paid a monthly payment to his ex-partner to cover the cost of rent, utilities, food and other day to day costs. I’ve considered the bank statements Mr S has sent to us. I can see there were some additional ad hoc payments, in and out of the account to his ex-partner, but overall I’m only considering Mr S’ regular income and financial commitments. I can see Mr S had a credit card with a limit of £4,500, even if he wasn’t using the full limit of his credit card, I’d consider this to be credit available to him, so I’ve included in my considerations an amount as if Mr S was fully utilising the credit available to him.

Mr S had a regular monthly income of around £2,020 and I consider he’d regular outgoings, to his ex partner, credit card, loan, child maintenance and motoring costs of an average each month of around £1,532. So, I’m satisfied the information Mr S has provided about his finances at the time appears to show that when his committed regular living expenses and existing credit commitments were deducted from his monthly income, he did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

So while I’m not persuaded that MotoNovo’s checks before entering into this Conditional Sale agreement with Mr S went far enough, I’m satisfied that carrying out reasonable and proportionate checks won’t have stopped MotoNovo from providing these funds, or entering into this agreement with him. As this is the case, I don’t think that MotoNovo acted unfairly or unreasonably towards Mr S. So I’m not upholding this complaint. I appreciate that this will be disappointing for Mr S. But I hope he’ll understand the reasons for my decision.

I can see that after the loan was taken out Mr S’ financial situation changed with the impact of the pandemic and losing his employment. I can see that MotoNovo have been working with Mr S during this difficult time. And I’d expect them to act with forbearance and consideration with Mr S in the repayment of any remaining balance.

My final decision

I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 31 October 2023.

Anne Scarr
Ombudsman