

## **The complaint**

Ms D complains that as a result of incorrect information provided by Moneybarn No. 1 Limited (“Moneybarn”) she entered into an individual voluntary arrangement (“IVA”) that she might have otherwise not entered into or paid more into it than she might have otherwise paid.

## **What happened**

In late 2014 Ms D entered into a conditional sale agreement (“agreement”) with Moneybarn to fund the acquisition of a car. The cash price of the car was £8,087.99. Everything else being equal Ms D undertook to make an advance payment of £400 followed by 47 monthly payments of £311.71 – making a total repayable of £15,050.37 at an APR of 43.9%.

In October 2015, and due to arrears accumulating, Moneybarn terminated the agreement.

In February 2018 Ms D’s debt was recorded in Moneybarn’s books as £9,149.49.

In May 2019, following a review of Ms D’s debt, Moneybarn reduced the sum due and owing in its books by £5,147.98. This was done because Moneybarn accepted it hadn’t done a good enough job in communicating to Ms D, in October 2015, the best agreement exit option available to her. And had it done so, her balance due and owing in February 2018 in its books would have been £4,001.51 rather than £9,149.49.

Ms D, due to her level of indebtedness, entered into an IVA. Her IVA was approved by her creditors (including Moneybarn) on 23 April 2019. A completion certificate in respect of the same was issued on 23 December 2019.

The sums initially claimed by Ms D’s 16 creditors (including Moneybarn) was £31,307.30. However, this was reduced to £26,159.32 after Moneybarn reduced its claim to £4,001.51 from £9,149.49.

Ms D paid £11,000 into her IVA representing approximately 35% of what she understood she owed her 16 creditors (£31,307.30). However, after Moneybarn had reduced its claim Ms D’s payment of £11,000 ended up representing approximately 42% of what she owed her 16 creditors (£26,159.32).

The sum of £11,000, having been reduced by various fees and disbursements to £8,887.63, was paid out to Ms D’s 16 creditors at a dividend rate of 33.975p in the pound. This meant Moneybarn received £1,359.51.

Ms D complained to Moneybarn, then our service, that had Moneybarn advised her sooner than 17 May 2020 that she owed it £4,001.51, rather than £9,149.49, she may haven’t entered into an IVA, or instead she may have paid less than £11,000 into it.

Ms D's complaint was considered by one of our investigators who came to the view that it shouldn't be upheld. In summary she said:

- She wasn't persuaded that Ms D entered into her IVA simply on the strength of the sum of £9,149.49 Moneybarn says she owed it and which it initially claimed under her IVA.
- Moneybarn only received 33.975p in the pound of its reduced claim of £4,001.51 and not 33.975p in the pound of its first and higher claim of £9,149.49.
- She wasn't persuaded that Ms D would have paid less than £11,000 into her IVA had she been aware her total indebtedness was £26,159.32 rather than £31,307.30.
- Even had Ms D made a lower offer to her creditors under her IVA, there is no guarantee that such an offer would have been accepted by them.

Ms D didn't agree with the investigator's view. In summary she said:

- The only reason she entered into the IVA was because of what Moneybarn initially said she owed it, this being £9,149.49.
- The Moneybarn debt was the only debt recorded with credit reference agencies as being in default.
- Moneybarn was aware before the creditors' meeting that the debt in its books was overstated by £5,147.98.

However, she went on to say that she was prepared to accept a lower sum than £5,147.98 to settle her complaint.

The investigator considered Ms D's response to her view but wasn't persuaded to change her mind. Therefore, the complaint has been passed to me for review and decision.

### **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 can confirm that I've come to the same conclusion as the investigator and for the same reasons.

It's clear Ms D 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 D 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.

I would also add that where the information I've got is incomplete, unclear or contradictory, as some of it's here, I've to base my decision on the balance of probabilities.

Now I accept that Moneybarn would have known, or should have known, prior to the creditors' meeting on 23 April 2019 that Ms D's debt would be caught by its account review. But I find Moneybarn's submission that it wasn't until after 23 April 2019 that it undertook a review of Ms D's account and established it should be reduced (and by how much) to be both plausible and persuasive. Therefore, I find that Moneybarn wouldn't have known prior to 23 April 2019 that the balance of Ms D's debt in its books was overstated by £5,147.98.

Ms D says that the only reason she entered into the IVA was because of what Moneybarn told her she owed it. Now I accept I can't say for certain Ms D would have still entered into her IVA had Moneybarn told her, before 23 April 2019, that she owed it £4,001.51 rather than £9,149.49. But on the balance of probabilities I'm persuaded she would have done. I've come to this conclusion given, amongst other things, that Moneybarn's £5,147.98 reduction in its claim under Ms D's IVA represents only 16% of the initial claim (from all 16 creditors) of £31,307.30.

Ms D also says that even had she still entered into an IVA, had Moneybarn claimed only £4,001.51 under it at the outset rather than £9,149.49, she would have paid less than £11,000 into it. Again, I can't say for certain Ms D wouldn't have paid less than £11,000 into her IVA had Moneybarn claimed only £4,001.51 under it at the outset rather than £9,149.49. But on the balance of probabilities I'm not persuaded she would have done. In my view Ms D's offer of £11,000 would have been made regardless of what she understood she owed her creditors. Put another way, it's my view that Ms D had calculated £11,000 was what she could afford to pay her creditors and whether such an offer represented 35% or 42% of what she owed wouldn't have been, on the balance of probabilities, material to her decision making. Furthermore, and as noted by the investigator, there is no guarantee that an offer of less than £11,000 would have been acceptable to Ms D's 16 creditors.

I appreciate Ms D will be disappointed but given what I say above I find that Moneybarn doesn't have to pay her anything by compensation in respect of this complaint.

### **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 D to accept or reject my decision before 19 May 2021.

Peter Cook  
**Ombudsman**