

## **The complaint**

Mr M complains about the way Moneybarn No. 1 Limited and its agent sold him a conditional sale agreement.

## **What happened**

Mr M approached a credit broker (who I'll call "C") in order to get finance to acquire a car. In early March 2020, Mr M acquired a used car using a conditional sale agreement from Moneybarn which was brokered by C. The cash price of the car was £10,900. Mr M paid a £600 deposit and was required to make 59 payments of around £400 per month, the total repayable under the agreement was around £24,500.

Soon after taking possession of the car Mr M raised a complaint with C saying he was a vulnerable adult and that he thought the agreement had been mis-sold to him. He later raised a similar complaint with Moneybarn. In summary, he said:

- C had unfairly inflated the price of the car. He says he discovered that the true cash price of the car was £9,500 because C had left details inside the car of what it had been on sale for at a previous dealership.
- The finance agreement wasn't properly explained to him as he didn't realise how high the interest rate was or that there were hidden fees and charges.
- He'd told C he had a budget of £10,000 but the total repayable under the finance was more than double this. He said he felt pressured into taking out the agreement by C.
- He was told the first payment wouldn't be due until 30 days after the agreement but was taken by direct debit 24 days later.

Moneybarn didn't think it had done anything wrong. It said the finance paperwork Mr M was presented with was clear concerning the cash price, the total repayable, the interest and any associated fees or charges. It said he was given the opportunity to review the information to ensure he was happy with it before signing. Lastly, it said that Mr M had opted to set his direct debit date to the thirtieth day of the month which is why it collected sooner, by default the direct debit date would have been 30 days after the agreement was signed.

Our investigator didn't recommend the complaint be upheld. She thought Moneybarn had given Mr M clear and sufficient information about the conditional sale agreement and the price of the car. She hadn't seen anything to demonstrate Mr M was likely pressured into entering into the agreement. She said she could see Moneybarn had tried to discuss Mr M's payment difficulties with him and didn't think there was anything further they needed to do.

Mr M didn't agree. He said Moneybarn had been fined by the regulator for the poor way it had treated customers, and this demonstrated it was likely they treated him poorly too.

Because Mr M didn't agree, the complaint has been passed to me for a final 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.

Mr M has also raised concerns about the affordability of the conditional sale agreement, specifically Moneybarn's awareness of his personal and financial circumstances and that it wasn't disclosed to him whether commission was paid to C. These additional issues won't be addressed in this decision as they are being dealt with separately under a different complaint.

Section 56 of the Consumer Credit Act 1974 has the effect of holding Moneybarn responsible for any antecedent negotiations between Mr M and C, who acted as Moneybarn's agent when brokering the conditional sale agreement. What this means is that anything C said or did when arranging the finance agreement, I can consider against Moneybarn.

Mr M says that additional fees and charges were added onto the agreement without his knowledge. It seems that what he's referring to is that C purchased the car for around £9,500 and then sold it to Moneybarn for £10,900 in order for it to be provided to him under the conditional sale agreement. Mr M therefore says that there were in excess of £1,000 in hidden charges added to the agreement. However, I don't agree.

Mr M agreed to enter into the conditional sale agreement with the understanding that the cash price of the car was £10,900. This is made clear in the invoice and finance documents. While it does appear C bought the car for cheaper than this, that doesn't mean they've acted unfairly or misled Mr M. Instead, £10,900 was simply the price C were willing to sell the car for. If Mr M wasn't happy with the proposed price of £10,900, he could have negotiated or decided not to go ahead with the deal.

What Mr M appears to be unhappy with is that he feels he's paid an inflated price for the car compared to what he might have paid elsewhere. That is of course possible, but that doesn't mean C or Moneybarn have acted unreasonably. C was entitled to charge any price it wanted to, and Mr M was free to either accept or refuse that price.

It doesn't appear the cash price stated on the finance agreement was for a greater amount than was agreed, so I don't agree that any hidden charges or fees were added. Mr M appears to just be unhappy he's paid more than he might have done elsewhere, which isn't something I can reasonably direct Moneybarn to compensate for.

Mr M has also said that C didn't explain the finance paperwork to him. I've considered the relevant rules around pre-contract disclosures set out in CONC 4 of the regulator's handbook. These say that a firm is required to provide adequate explanations of the key parts of the conditional sale agreement. It says that these explanations can be given either orally or in writing.

I've reviewed the paperwork Mr M was provided with and I think this clearly sets out the costs of the agreement, including the cash price of the car, the deposit, interest rate, total repayable, and the monthly repayments and any other fees. It also provides an explanation about the ownership of the car, what happens in the event of non-payment (such as the possibility of repossession) as well as other relevant information about the agreement.

Overall, I'm therefore satisfied that Mr M was provided with an adequate explanation in writing prior to entering into the agreement. There was no requirement for C to provide this explanation orally too. Further, it doesn't appear that Mr M asked for one.

Mr M says he told C that he didn't want to spend more than £10,000 on the car. However, as I've set out above, I think it was made clear to him what the price of the car was and the

overall costs of the agreement. Mr M was therefore given sufficient information to decide whether or not to proceed with the agreement. Although this is more than he says he initially wanted to commit to, I haven't seen anything to demonstrate Moneybarn has acted unfairly or unreasonably.

Mr M says he was pressured into entering into the agreement by C, so he had no choice but to sign the agreement. Mr M says C told him he wouldn't be able to get finance anywhere else and should therefore sign up quickly.

I've listened to a call Mr M had with one of our investigators when he described the sales process. He says the sale was conducted over the phone and he was initially offered a car which was worth over £15,000 but he says he turned this down because he didn't need a car that was that expensive. He says the salesperson then offered a number of different cars until one was selected. Mr M also told the investigator that he isn't *'the best at saying no'*.

I don't think there's anything within what Mr M has said to make me think he was under unfair pressure to enter into the agreement. It seems Mr M wasn't in a face to face sales environment and could therefore have simply hung up the phone. Further, he had already said no to one particular offer of a more expensive car, so I'm not persuaded he was forced or pressured to enter into an agreement he didn't want.

The initial direct debit payment was collected 24 days after the agreement was inceptioned. Mr M says he was told it wouldn't be collected until 30 days after the agreement start date. I've seen that 30 days is the standard timeframe for the payments to be set for and this is made clear on the direct debit mandate Mr M would have signed. The mandate says that if Mr M wanted a different date for collection, he should specify it on the form.

It appears Mr M wanted his direct debit to collect on the thirtieth of every month. However, as 30 April 2020 was too far ahead from the agreement start date it was amended to 30 March 2020 instead. It's not clear whether this was explained to Mr M at the time, however, I can't see that there's been any significant detriment caused as a result.

I say this because the direct debit payment was still collected and Moneybarn amended the payment date to be every 30 days after Mr M raised his concerns. While it's possible C or Moneybarn made an initial error in not explaining the payment date clearly, I don't think Moneybarn needs to do anything further to put things right.

Lastly, Mr M says he's faced financial difficulty and hasn't been able to afford the monthly repayments. I can see Moneybarn gave him a payment holiday and then agreed to extend this further. It has told Mr M to get in touch and discuss his circumstances in order to work out the best solution for the agreement. I'm therefore satisfied that Moneybarn have taken proactive steps to try and assist Mr M and I would remind them to continue to treat Mr M fairly if he is continuing to struggle financially.

### **My final decision**

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 6 September 2021.

Tero Hiltunen  
**Ombudsman**