DRN-2867307

The complaint

Mr J complains that Moneybarn No 1 Limited provided him with a conditional sale agreement for a car in 2015 which was unaffordable.

What happened

In January 2015 Mr J entered into a five-year conditional sale agreement for a used car with Moneybarn. The cost of the car was £10,388 and the cost of the interest was around £8,519 making a total amount to pay off around £18,905 via 60 monthly payments of about £320.

Mr J says that at the time he entered into this credit agreement he was struggling financially and that if Moneybarn had done a thorough check by looking at his bank statements it would have discovered that he wasn't going to be able to afford the payments.

Mr J missed payments under the agreement and a default notice was issued by Moneybarn in July 2015. A Consent Order was entered into by Mr J in October 2015 and a payment schedule was set for 12 monthly payments of around £460 followed by 40 payments of around £320. Mr J didn't keep to these payments and the car was repossessed and sold at auction. There was a shortfall left to clear under the agreement which Mr J has been paying at the rate of £25pm.

Mr J complained to Moneybarn that the agreement was unaffordable, and it hadn't carried out sufficient checks to ensure it was affordable for him. Moneybarn didn't uphold his complaint. It said it had obtained copies of his payslips as well as undertaking a credit check and although there was a defaulted account on his credit record this had been 18 months before this agreement and so was historic. It said Mr J's other credit accounts appeared to be being paid as required.

Moneybarn said that the repayments for this agreement equated to less than 25% of Mr J's monthly income and this complied with its lending criteria.

Mr J disagreed with the view of Moneybarn and complained to this service. Our investigator didn't recommend that Mr J's complaint should be upheld. He said that although he didn't think Moneybarn had made reasonable and proportionate checks into Mr J's income and outgoings he thought that if it had, that it would have considered the loan had been affordable.

Mr J disagreed with the view of our investigator. He said that he didn't think the checks carried out by Moneybarn had been in-depth enough and it should have asked him for copies of his bank statements. If Moneybarn had, Mr J says, it would have seen that he had a financial problem.

As the parties were unable to reach an agreement the complaint has been passed to me.

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.

When looking at whether a credit agreement was fair and affordable, I need to take into account the relevant rules, guidance, good industry practice and law. There are two overarching questions I need to think about in order to decide what is fair and reasonable in the circumstances of this complaint. These are:

- Did Moneybarn complete reasonable and proportionate checks to satisfy itself that Mr J would be able to repay the loan in a sustainable way?

  a). If so, did it make a fair lending decision?

  b). If not, would reasonable and proportionate checks have shown that Mr J would've been able to sustainable repay the agreement?

Looking at the first question, I agree with the view of our investigator in that I don't think Moneybarn carried out reasonable and proportionate checks despite its representations that it did, and I will explain why.

Moneybarn says the checks it carried out complied with the requirements of the Consumer Credit Sourcebook ("CONC") set out in the FCA's handbook when assessing affordability. CONC says that a credit provider, in order to responsibly lend, is required to carry out what is referred to as an affordability check and this check should be borrower focused. This is to verify Mr J could sustainably afford the borrowing when looking at his particular circumstances.

CONC also says that checks are to be reasonable and proportionate and what's considered to fit that test will depend on a number of factors such as the amount of credit; the total repayable and the size of the regular payments; the duration of the agreement, the cost of the credit and the consumer's circumstances.

Here, the total amount payable was around £18,905 with monthly payments of about £320 over a five-year term. Moneybarn had requested payslips from Mr J and had calculated his monthly income to be around £1,729. The monthly repayments for the car equated to 19.52% of his monthly take home pay which I think is reasonable to say was a sizable and lengthy credit agreement for Mr J to enter into and, due to that, I think the affordability check needed to be thorough for it to satisfy the requirement set down in CONC.

From information I've seen, I understand Mr J was single, working in a full-time post and paying rent for his accommodation. I appreciate he had also signed the conditional sale agreement confirming that the payments were affordable for him, but I don't think that meant that Moneybarn wasn't still required to carry out reasonable and proportionate checks.

I'm not sure how many payslips Moneybarn obtained from Mr J but it appears to have been more than one as it averaged out his earnings to be £1,729.04. Mr J has supplied this service with five months' worth of bank statements from September 2014 until February 2015. And averaging out his monthly pay from these statements I have also calculated his monthly income to have been around £1,720. So, I think Moneybarn had sufficiently verified Mr J's income.

However, although Moneybarn carried out a credit check on Mr J, I don't know what other information it had sought regarding his commitments. I haven't seen that any figures were obtained as to essential expenditure. I also don't know what the credit check showed as a copy can't now be provided. Moneybarn says there was one defaulted account which was 18 months old at the time of the inception of this agreement. It also appears Mr J had other credit agreements he was servicing. I think that the default wasn't so old that it shouldn't have raised further enquiries to ensure this agreement was sustainably affordable for Mr J. So, I think in the circumstances it would have been reasonable and proportionate for Moneybarn to have asked about Mr J's rent other expenses.

So, I don't think Moneybarn has properly gathered information about Mr J's expenses/financial commitments and information outside of what was in Mr J's credit record was required when considering the length and proportion of his monthly income that would be committed to paying this agreement. Moneybarn should have checked Mr J wasn't overcommitting when taking on this agreement.

So, for the reasons set out above, I don't think Moneybarn completed reasonable and proportionate checks to satisfy itself that Mr J would be able to repay this agreement in a sustainable way. This means I now need to consider that if Moneybarn had carried out those checks, would it have shown Mr J was able to repay this agreement in a sustainable way.

Mr J has provided this service with copies of his bank statements from around the time he entered into this agreement. He says that Moneybarn should have required these from him too as then it would have been alerted that he had a particular spending problem which was likely to lead to financial problems. He says this problem would have been obvious from those bank statements as it would have shown a large number of payments going out. But, while I agree Moneybarn should have done further checks about his income, I don't think I can reasonably say it should have required copies of bank statements and then assessed each of Mr J's outgoings to see if there were any inappropriate spending patterns. I don't think it would have been proportionate to the size of the credit agreement for Moneybarn to have undertaken the level of scrutiny of how Mr J spent his money that he suggests it should have undertaken. I think asking further questions about essential expenses would have been enough. That means asking questions about rent, utilities and insurances.

I also don't think I would have reasonably expected Moneybarn to have uncovered Mr J's particular spending problem from the one default recorded on his credit file. Moneybarn says his other credit agreements were being managed by him and looking at the amount of his repayments and his income I don't think there were any clear red flags that Mr J was struggling due to this particular issue.

Looking at Mr J's outgoings I can see that he had the following expenses each month:

Rent £600
Utilities £44
Council Tax £121
Other credit payments £97
Insurance £42
Petrol £52
WiFi £29
Breakdown cover £3
TV Licence £19
Phone £35

Total expenses = £1042

This leaves Mr J with around £687pm as disposable income from which he would need to pay food and other expenses. Deducting the cost of this agreement from that figure would leave Mr J with around £366pm.

So, when considering the amount of disposable income Mr J had and the monthly cost of the loan, I think it’s more likely than not Moneybarn would have decided the loan was sustainably affordable for Mr J.

For the reasons given, I’m not upholding Mr J’s complaint.

My final decision

For the reasons set out above I’m not upholding Mr J’s complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr J to accept or reject my decision before 10 November 2021.

Jocelyn Griffith
Ombudsman