

The complaint

Mr B complains that a conditional sale agreement with Moneybarn No. 1 Limited, under which a car was supplied to him, was mis-sold to him.

What happened

A used car was supplied to Mr B under a conditional sale agreement with Moneybarn that he electronically signed in June 2020. He complained to Moneybarn in October 2020 that he couldn't afford the insurance premiums, that he'd been pressurised into signing the agreement and that he shouldn't have been allowed to enter into it because of his medical issues.

It said that it wasn't made aware of any concerns regarding his health or wellbeing until he complained to it, he should complain to the dealer about its conduct and it was his responsibility to check the maintenance costs of the car, including insurance. He wasn't satisfied with its response so complained to this service. He says that he agreed a payment holiday with Moneybarn but it's recorded missed payments on his credit file and he's proposed an amount that he thinks would be fair for him to pay for the car.

Our investigator recommended that his complaint should be upheld in part. He didn't consider that the agreement had been mis-sold to Mr B or that Moneybarn needed to agree to the proposal that he'd made so he said that he should still make his monthly repayments of £391.41. He said that Moneybarn's system notes appear to support what Mr B had said about a three month payment holiday so, unless it could supply further proof that it wasn't agreed, he recommended that it should remove the late payment markers and any adverse information it had recorded on Mr B's credit file in relation to this matter. He also said that it should pay Mr B £50 compensation for the inconvenience caused.

Moneybarn has accepted those recommendation but Mr B has asked for his complaint to be referred to an ombudsman. He has responded in detail and says, in summary and amongst other things, that:

- he wasn't of sound mind and Moneybarn advised him that he shouldn't have been sold the car due to his medical issues;
- he was on medication at the time he entered into the agreement but had to stop taking it after the payments commenced for the car as he could no longer afford the prescriptions;
- he was made aware of his options for ending the agreement but his complaint is that Moneybarn felt that the agreement was mis-sold so should be null and void;
- he's not been able to afford to have the car serviced because of his financial difficulties and he's had to use an unplanned overdraft every month to pay for diesel for the car; and
- his insurance premium for this car is more than £100 more each month than the insurance for his previous car and the dealer obtained an inaccurate quote with invalid information.

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 agree with the outcome recommended by our investigator for these reasons:

- I sympathise with Mr B for the medical issues and financial difficulties that he's described and I've taken them into account, including the medical evidence that he's provided;
- Mr B electronically signed the conditional sale agreement and his then partner made an advance payment of £200 for the car on his behalf and he agreed to make 59 monthly payments of £391.41 for the car to be supplied to him;
- he also electronically signed a document which explained his proposed finance agreement in which his net monthly income was confirmed as £2,025.65 and his non-discretionary monthly expenditure was confirmed to be not more than £1,090.45;
- I consider it to be more likely than not that Mr B provided information to the dealer about his income and expenditure or that he was aware of the information that it was using before he signed the document;
- that information showed that he had discretionary monthly expenditure of £935.20 so I consider that Moneybarn made proportionate checks about the affordability of the credit before Mr B entered into the conditional sale agreement and that it was reasonable for it to conclude that he could afford the monthly payment of £391.41 at the time that the car was supplied to him;
- Mr B went to the dealer with his then partner and I've seen no evidence to show that either the dealer or Moneybarn was made aware of his medical issues at that time or that Moneybarn shouldn't have provided credit to him because of those issues – Moneybarn says that it didn't become aware of his medical issues until he complained to it in October 2020;
- in June 2020, when Mr B signed the agreement, I don't consider that Moneybarn knew, or ought to have known, about his medical issues and I consider that it was fair or reasonable for it to provide credit to him at that time – he's now provided evidence of his medical issues but he's still bound by the agreement that he signed and those medical issues don't mean that Moneybarn is now required to end the agreement;
- I'm not persuaded that there's enough evidence to show that Moneybarn has agreed that the agreement was mis-sold to Mr B or that it should be ended;
- Mr B says that the dealer provided him with an insurance quote for the car which was based on inaccurate and invalid information – but it was Mr B's responsibility to insure the car and I consider it to be more likely than not that any quote that was provided by the dealer was only indicative and was obtained to help him – I don't consider that it was required to do that or that it would be fair or reasonable for me to require Moneybarn to accept any responsibility for that quote;
- I'm not persuaded that there's enough evidence to show that the agreement was mis-sold to Mr B or that it would be fair or reasonable for me to require Moneybarn to accept the proposal that Mr B has made for his repayments;
- there's no clear evidence to show that Moneybarn had agreed a payment holiday for Mr B between October and December 2020 but I can see why he understood from the information contained in Moneybarn's system notes that he thought that he didn't

need to make payments during that period;

- our investigator invited Moneybarn to supply further proof that a three month payment holiday wasn't agreed – it hasn't done so but has accepted his recommendations and has agreed to remove adverse information from Mr B's credit file and to pay him £50 compensation;
- Mr B didn't make his monthly payments during that period and Moneybarn has recorded missed payments on his credit file;
- he's continued not to make payments to Moneybarn since December 2020 and it has recorded missed payments on his credit file – although he'd complained to Moneybarn (and then to this service) he was required to make the monthly payments for the car which had been supplied to me;
- I find that it would be fair and reasonable in these circumstances for Moneybarn to remove any adverse information relating to the monthly payments for October to December 2020 that it's recorded on Mr B's credit file (and it has agreed to do so);
- I consider that the missed payments that it's recorded since then are a true and accurate record of his payment history so it wouldn't be fair or reasonable for me to require it to remove the adverse information about those missed payments from his credit file;
- I suggest that Mr B contacts Moneybarn to discuss his options under the agreement, the arrears on his account and his financial difficulties – it's required to respond to those difficulties positively and sympathetically;
- these events will have caused distress and inconvenience for Mr B – and it's clear that he's angry and has very strong feelings about this matter – but I find that it would be fair and reasonable for Moneybarn to pay him £50 to compensate him for that distress and inconvenience and I'm not persuaded that compensation of more than that amount is justified in these circumstances; and
- I find that it wouldn't be fair or reasonable in these circumstances for me to require Moneybarn to allow Mr B to return the car and end the conditional sale agreement, to pay him any more compensation than the £50 referred to above or to take any other action in response to his complaint other than removing the information from his credit file.

Putting things right

I find that it would be fair and reasonable in these circumstances for Moneybarn to remove any adverse information relating to the monthly payments for October to December 2020 that it's recorded on Mr B's credit file. I also find that it should pay him £50 to compensate him for the distress and inconvenience that he's been caused.

My final decision

My decision is that I uphold Mr B's complaint in part and I order Moneybarn No. 1 Limited to:

1. Remove any adverse information relating to the monthly payments for October to December 2020 that it's recorded on Mr B's credit file.
2. Pay £50 to Mr B to compensate him for the distress and inconvenience that he's been caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 9 March 2022.

Jarrold Hastings
Ombudsman