

## **The complaint**

Mr T complains that Moneybarn No. 1 Limited irresponsibly granted him a conditional sale agreement he couldn't afford to repay.

## **What happened**

In February 2016, Mr T acquired a used car financed by a conditional sale agreement from Moneybarn. Mr T was required to make 47 monthly repayments of £157. The total repayable under the agreement was £7,371.

Mr T says that Moneybarn didn't complete adequate affordability checks. He says if it had, it would have seen the agreement wasn't affordable. Moneybarn didn't agree. It said that it carried out a thorough assessment which included seeing copies of Mr T's payslips to verify his income and carrying out a credit check to assess his credit worthiness and indebtedness. It says that the credit search showed no county court judgement or defaults on Mr T's report and it says Mr T signed the customer declaration saying that the agreement was affordable.

Our adjudicator recommended the complaint be upheld. She thought Moneybarn ought to have realised the agreement wasn't affordable to Mr T.

Moneybarn requested copies of the bank statements relied on in the view and these were sent. It didn't provide any further response to our adjudicator's view.

The case 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.

Moneybarn will be familiar with all the rules, regulations and good industry practice we consider when looking at a complaint concerning unaffordable and irresponsible lending. So, I don't consider it necessary to set all of this out in this decision.

Before granting the finance, Moneybarn gathered payslips to verify Mr T's income. His income at this time was around £1,550. Moneybarn didn't ask Mr T about his expenditure. Although it did complete a credit check, this won't have indicated what Mr T's regular living expenses were. Without knowing what Mr T's regular committed expenditure was Moneybarn wouldn't have got a reasonable understanding of whether the agreement was affordable or not.

Moneybarn hasn't provided a copy of the credit check it completed although it has noted that the check showed Mr T didn't have any county court judgements or defaults recorded. I've therefore relied on a copy of the credit file supplied by Mr T (this is from April 2018). I think this gives a good indication of what Moneybarn would likely have seen. At the time of the application it shows that although Mr T appeared to be managing his accounts, he had other credit commitments and had several short term loans outstanding. I think this ought to have

indicated that Mr T was likely to be struggling financially. It therefore would have been proportionate for Moneybarn to have got a more thorough understanding of Mr T's financial circumstances before lending.

I think it would have been proportionate for Moneybarn to have found out more about Mr T's committed expenditure, such as his living costs. I can't be sure exactly what Moneybarn would have found out if it had asked. In the absence of anything else, I think it would be reasonable to place significant weight on the information contained in Mr T's bank statements as to what would most likely have been disclosed.

I've reviewed three months of bank statements leading up to the lending decision. These show that Mr T was paying around £340 for his phone, internet, utilities and insurance along with over £550 towards his credit commitments. These costs were before food and other transport costs. Mr T had taken out over £1,800 of short term loans in the previous two months that would need to be repaid in the subsequent months. Mr T was also making regular use of gambling websites. I think this shows that Mr T was struggling financially and wasn't in a position to afford the repayments towards the new agreement without financial difficulty or having to borrow further. Had Moneybarn completed proportionate checks, I think it's likely it would have discovered this too. It therefore didn't act fairly by approving the finance.

### **Putting things right**

As I don't think Moneybarn ought to have approved the lending, I don't think it's fair for it to be able to charge any interest or charges under the agreement. Mr T should therefore only have to pay the original cash price of the car, being £4,000. Anything Mr T has paid in excess of that amount should be refunded as an overpayment.

To settle Mr T's complaint Moneybarn should do the following:

- Refund any payments Mr T has made in excess of £4,000, representing the original cash price of the car. It should add 8% simple interest per year\* from the date of each overpayment to the date of settlement.
- Remove any adverse information recorded on Mr T's credit file regarding the agreement.

\*HM Revenue & Customs requires Moneybarn to take off tax from this interest. Moneybarn must give Mr T a certificate showing how much tax it's taken off if Mr T asks for one.

### **My final decision**

I uphold this complaint and direct Moneybarn No. 1 Limited to put things right in the manner set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 15 December 2021.

Jane Archer  
**Ombudsman**