

The complaint

Miss C complains that Moneybarn No. 1 Limited irresponsibly granted her a conditional sale agreement that she couldn't afford to repay.

What happened

In February 2018, Miss C acquired a used car financed by a conditional sale agreement from Moneybarn. Miss C made an initial payment of £700 and was required to make a further 53 monthly repayments of £143. The total repayable under the agreement was £8,291.

Miss C says that Moneybarn didn't complete adequate affordability checks. She 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 creditworthiness and indebtedness checks and received evidence of Miss C's income through two month's payslips. It says that although there was evidence of a default on Miss C's credit report this was over 12 months old. It said the repayments were for 8.5% of Miss C's net monthly income and that Miss C maintained her repayments without raising concerns until she settled her agreement early in September 2020.

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

Moneybarn requested copies of the information our adjudicator had relied on in her view. Our adjudicator sent the banks statements used in her view to Moneybarn. No further response was received. Therefore, this 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, I think Moneybarn gathered a reasonable amount of evidence and information from Miss C about her income. I say this because it considered two month's payslips and assessed Miss C's income based on these taking into consideration that part of the income recorded was for overtime. These showed her monthly income as being around £1,700.

However, I cannot see that Moneybarn asked Miss C about her expenditure. Although it did complete a credit check, this won't have indicated what Miss C's regular living expenses were. Without knowing what Miss C's regular committed expenditure was Moneybarn wouldn't have got a reasonable understanding of whether the agreement was affordable or not. It therefore didn't complete proportionate checks.

I think it would have been proportionate for Moneybarn to have found out more about Miss C's committed expenditure, such as her 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 Miss C'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 Miss C had monthly outgoings of around £1,700. This included £450 for rent, around £320 for utilities and council tax, £200 for food and transport along with other additional costs such as telephone and insurance. Miss C had payments of £231 a month for another loan and was paying over £320 towards debt management plans. While I note Moneybarn's comment about Miss C not declaring she was in a debt management plan at the time I think it reasonable that expenditure checks would have taken place and had these happened, I think Moneybarn would have realised that Miss C's living costs didn't leave her with enough disposable income to afford the additional borrowing. Moneybarn 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. Miss C should therefore only have to pay the original cash price of the car, being £4,999 (of which Miss C paid £700 as an initial payment). Anything Miss C has paid in excess of that amount should be refunded as an overpayment.

To settle Miss C's complaint Moneybarn should do the following:

- Refund any payments Miss C has made in excess of £4,999, 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 Miss C's credit file regarding the agreement.

*HM Revenue & Customs requires Miss C to take off tax from this interest. Moneybarn must give Miss C a certificate showing how much tax it's taken off if Miss C 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 Miss C to accept or reject my decision before 16 February 2022.

Jane Archer
Ombudsman