

The complaint

Mr M complains that Moneybarn No. 1 Limited irresponsibly granted them a conditional sale agreement they couldn't afford to repay.

What happened

In December 2016, Mr M acquired a used car financed by a conditional sale agreement from Moneybarn. Mr M was required to make 59 monthly repayments of £675. The total repayable under the agreement was £39,808.

Mr M 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 credit worthiness checks and verification of Mr M's income.

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

Moneybarn responded to our adjudicator's view requesting the information she had relied on in issuing her determination.

Our adjudicator sent Moneybarn the information she had relied on. Moneybarn didn't respond further to this information and so 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 Mr M about his ability to repay. I say this because it received copies of Mr M's bank statements from which it verified his monthly income. The statements also included information about Mr M's expenditure and while I haven't seen further reference to his living costs at the time I note that Moneybarn did assess certain aspects of Mr M's expenses. Moneybarn also carried out a credit check and while it noted a historic default it found no defaults within the previous 36 months. However, just because I think it carried out proportionate checks, it doesn't automatically mean it made a fair lending decision. So, I've thought about what the evidence and information showed.

I've looked at copies of the bank statements between September to November 2016, and these show Mr M's monthly income to be around £4,500. The statements provided by Moneybarn show that Mr M was making frequent use of short-term high cost lenders which I

think should have raised concerns that meant further investigation took place. I have looked at the copies of the bank statements provided by Mr M in regard to his accounts and these show large payments to and from short-term high cost lenders (over £1,500 in months prior to the agreement) and monthly payments of over £500 to debt management companies. I think this should have shown Moneybarn that Mr M was struggling financially.

Considering Mr M's credit commitments alongside his other living costs (of around £1,700 for costs such as housing, utilities, mobile phone and other general expenses), this would leave Mr M with disposable income of less than £800 a month. Given the repayments under the agreement were for £675 I do not find that these should have been considered sustainably affordable.

Overall, I think Mr M's bank statements gave a clear indication that Mr M wasn't in a position to afford the repayments towards the new agreement without experiencing difficulty or having to borrow further. Moneybarn therefore didn't make a fair lending decision.

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 M should therefore only have to pay the original cash price of the car, being £21,944. Anything Mr M has paid in excess of that amount should be refunded as an overpayment.

To settle Mr M's complaint Moneybarn should do the following:

- Refund any payments Mr M has made in excess of £21,944, 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 M's credit file regarding the agreement.

*HM Revenue & Customs requires Moneybarn to take off tax from this interest. Moneybarn must give Mr M a certificate showing how much tax it's taken off if Mr M 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 M to accept or reject my decision before 11 February 2022.

Jane Archer
Ombudsman