DRN-3261172

The complaint

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

What happened

In August 2017, Mr G acquired a used car financed by a conditional sale agreement from Moneybarn. Mr G paid a £400 deposit and was required to make 59 monthly repayments of just over £500. The total repayable under the agreement was just over £30,000.

Mr G says that Moneybarn didn't complete adequate affordability checks. He says if it had, it would have seen the agreement wasn't affordable and that his credit file showed he had several defaults and wasn't maintaining payments on his other credit commitments. He says he had recently changed jobs before the agreement was provided and that he then lost his job a few weeks later.

Moneybarn didn't agree. It says that it carried out a thorough assessment which included a credit check to assess Mr G's creditworthiness and indebtedness. It says that although Mr G said he had over £30,000 of defaulted debt at the time, its search showed defaulted debts of £8,000 and other commitments of £8,000 which was within its criteria. It says it certified Mr G's income through a payslip and his bank statement.

Mr G also says that the correspondence and documents were all sent by email including the Standard European Consumer Credit Information (SECCI) which he says wasn't provided in advance. He says there was little emphasis on taking time to read the details before signing and had he been given more time he may have discussed the agreement with his family and the issue of affordability may have been realised at that time. Moneybarn says Mr G was provided with all the documentation he needed and had time to consider this. It says while the documents were emailed it also noted that Mr G also had telephone calls with the sales team.

Our adjudicator didn't recommend the complaint be upheld. She thought Moneybarn didn't act unfairly or unreasonably by approving the finance agreement.

Mr G didn't agree and reiterated the debt he had at the time and the number of defaults that were recorded on his credit file. He also noted the cost of the repayments under this agreement was around 25% of his income which added to his other credit costs meant he was spending around 50% of his income on these commitments and that was before he had to pay his housing and other living costs.

My provisional conclusions

I issued a provisional decision on this complaint. I concluded in summary:

- Before granting the finance, Moneybarn verified Mr G's income using payslips and had sight of bank statements. Mr G had recently changed jobs, but I didn't think this meant the evidence provided couldn't be relied on.

- Moneybarn didn't provide a copy of the credit check it completed but said its checks showed Mr G had around £8,000 of defaulted debts and a further £8,000 of active credit commitments and that he had missed payments on other credit commitments at the time. Without the credit check results from Moneybarn I relied on a copy of the credit file supplied by Mr G to assess in more detail what would have been seen.

- Based on Mr G's 2021 credit report, at the time of the application Mr G had 10 defaulted accounts. The defaulted amounts totalled over £9,000 but as some payments may have been made before August 2017, I thought Moneybarn's comments of defaulted accounts of around £8,000 not unreasonable. Mr G said that on the credit report provided certain defaulted accounts had been removed due to companies going into administration.

- I thought the number of defaults and the timing of the most recent defaults raised concerns. This combined with the evidence that Mr G had missed payments on other active credit commitments; had over £30,000 of debt in a debt management plan; and had returned direct debit payments showed that Mr G had been struggling to manage his money for an extended period and his situation wasn't improving.

- The agreement with Moneybarn was for five years with repayments of around £500 a month. I thought that Mr G's credit file showed that it was unlikely he would be able to afford the repayments towards the new agreement without financial difficulty or having to borrow further. I noted Moneybarn's comments about subsequent income and expenditure assessments, but this complaint was about the provision of the agreement in August 2017 and in this case I didn't think Moneybarn acted fairly by approving the finance.

Mr G accepted my provisional decision. Moneybarn didn't respond.

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.

As I set out in my provisional decision I think Moneybarn gathered adequate information about Mr G's income. It also carried out a credit check and it was the information contained within Mr G's credit report that should have raised concerns that he was struggling to manage his money and had been struggling for an extended period of time.

I think the number and timing of Mr G's defaults combined with evidence that he was missing payments on active credit commitments at the time, had returned direct debits showing on his bank account and had over £30,000 of debt in a debt management plan, meant that providing further credit to him at this time wasn't responsible.

The agreement with Moneybarn was for five years with repayments of around £500 a month. I think that Mr G's credit file showed that it was unlikely he would be able to afford the repayments towards the new agreement without financial difficulty or having to borrow further. Because of this I don't think Moneybarn acted fairly by approving the finance.

Putting things right

As I don't think Moneybarn ought to have approved the lending, it should therefore refund all the payments Mr G has made, including any deposit. However, Mr G has had use of the car from August 2017 and continues to do so and has said he wishes to keep the car. So, I think it's fair he pays for that use. In this case I think the fair resolution is for Mr G to pay for the original cost of the car but no more, that is £14,495 and then keep the car. I note the April statement of account showed Mr G had already paid in excess of this figure.

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

- End the agreement with nothing further to pay.
- Refund any payments Mr G has made in excess of £14,495, 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 G's credit file regarding the agreement.

*HM Revenue & Customs requires Moneybarn to take off tax from this interest. Moneybarn must give Mr G a certificate showing how much tax it's taken off if Mr G asks for one.

My final decision

My final decision is that I uphold this complaint. Moneybarn No. 1 Limited trading as Moneybarn should take the actions set out above in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 16 February 2022.

Jane Archer
Ombudsman