

## The complaint

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

Mr L is represented by a family member but for ease of reference I have referred to Mr L throughout this decision.

## What happened

In April 2017, Mr L acquired a used car financed by a conditional sale agreement from Moneybarn. Mr L made an initial payment of £500 and was required to make a further 59 monthly repayments of £383. The total repayable under the agreement was £23,121.

Mr L 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 a credit search to assess credit worthiness and level of indebtedness and was provided with copies of Mr L's payslips to evidence his income.

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

Mr L didn't agree and said he was using payday lenders to meet his living costs in the months leading up to the conditional sale agreement being provided. He had a high interest loan with another high cost credit provider and high interest rate credit cards. He also wasn't maintaining his repayments on certain credit commitments. Mr L says his bank statements would have shown gambling transactions and payments to debt management companies proving he had unmanageable debts. Mr L says that adequate checks would have shown that the conditional sale agreement shouldn't have been provided. He says that he maintained the payments as he needed the car for work.

## *My provisional conclusions*

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

- Before granting the finance, Moneybarn gathered a reasonable amount of evidence from Mr L about his income. It received copies of two months' payslips which gave an average monthly income of around £1,600.
- Moneybarn didn't ask Mr L about his expenditure. Without knowing what Mr L's regular committed expenditure was Moneybarn wouldn't have got a reasonable understanding of whether the agreement was affordable or not.
- Moneybarn didn't provide a copy of the credit check it completed and so I relied on a copy of the credit file supplied by Mr L. This showed Mr L was in arrears on some of his credit commitments in the months leading up to the conditional sale agreement. I

thought the information suggested that Mr L may have been experiencing some financial difficulties.

- I couldn't be certain what Mr L would have told Moneybarn had it asked about his regular expenditure. I didn't think Moneybarn needed to request bank statements, but in the absence of anything else, I placed significant weight on the information contained in Mr L's statements as well as the information in Mr L's credit report as an indication of what would most likely have been disclosed.
- The information gathered through Mr L's credit reports and bank statements showed that he had accounts in arrears and one which a debt management plan. His monthly credit commitments totalled around £1,000 a month. I thought this level of credit commitments against a monthly income of £1,600 should have raised concerns about his ability to sustainably repay any further credit.
- Joint account bank statements were provided and it was confirmed that Mr L and his wife both paid their salaries into the account and then used the funds to pay for the household expenses and the remainder was split to pay their own bills. Therefore, I thought it was reasonable to look at the transactions in the statements as a whole.
- The bank statements showed living costs (including items such as food, transport, insurance, utilities) as averaging around £1,000 a month in the months leading up to the agreement. Mrs L was earning around £1,700 a month. This was additional to the £1,600 earned by Mr L. Deducting the living costs of around £1,000 left income of around £2,300. As I was considering household income I also considered all outgoings and additional to Mr L's credit commitments of around £1,000 a month there were further credit commitments of around £1,000 recorded on the bank statements. These credit commitments combined with the living costs suggested a regular payment of a further £383 wasn't affordable.
- Taking a different approach and considering just Mr L's credit commitments of around £1,000 against his income of £1,600 raised concerns about his ability to meet further credit repayments of £383. And taking into account his other living costs such as food and fuel I thought this suggested the agreement wasn't affordable.
- Overall, given the size and term of the loan I didn't think the checks carried out were proportionate and thought that had further checks been undertaken, Moneybarn would have realised that Mr L was struggling to manage his money and that the agreement wasn't affordable.

Moneybarn responded to my provisional decision saying it would comply with the proposed settlement.

### **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. Information about our approach to these complaints is set out on our website.

As I set out in my provisional decision, I think Mr L's credit report should have raised concerns and that further checks should have been carried out regarding his expenditure to ensure the agreement was affordable. I think had proportionate checks taken place, Moneybarn would have realised the agreement wasn't affordable for Mr L.

No new evidence was provided in response to my provisional decision and Moneybarn agreed to my proposed settlement. Therefore, my conclusions haven't changed and I am upholding this complaint.

### **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 L should therefore only have to pay the original cash price of the car, being £13,400 (towards which Mr L paid a £500 deposit). Anything Mr L has paid in excess of that amount should be refunded as an overpayment.

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

- Refund any payments Mr L has made in excess of £13,400 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 L's credit file regarding the agreement.

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

### **My final decision**

My final decision is that I uphold this complaint. Moneybarn No. 1 Limited 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 L to accept or reject my decision before 11 March 2022.

Jane Archer  
**Ombudsman**