

The complaint

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

What happened

In March 2016, Mr H acquired a used car financed by a conditional sale agreement from Moneybarn. Mr H was required to make 59 monthly repayments of £518. The total repayable under the agreement was £30,572.

Mr H 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 Mr H's credit worthiness and level of indebtedness. It said that it provided finance to customers who had experienced historical financial problems and that Mr H's credit check showed a historic default however the amount of this and timing didn't raise concerns. It says Mr H provided copies of his recent payslips which were used to verify his earnings and that the repayments compared to his income fell within its lending criteria.

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

Moneybarn didn't respond to our adjudicator's view and 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 H about his income. I say this because it received information about Mr H's employment including payslips to verify his monthly income.

Moneybarn has said that Mr H had a historic default recorded on his credit file, but this didn't raise concerns. It hasn't provided a copy of the credit check it completed. I've therefore relied on a copy of the credit file supplied by Mr H. While this is a recent credit file and so won't contain certain information from the time, I think this gives a good indication of what Moneybarn would likely have seen. At the time of the application it shows Mr H had struggled to maintain his mortgage payments and while this account was up to date at the time of the application, he had missed a payment in December 2015 and on occasions throughout 2015. He was also three months in arrears with a utility provider and was making use of payday loans. I think this ought to have indicated that Mr H was likely to be struggling

financially. It therefore would have been proportionate for Moneybarn to have got a more thorough understanding of Mr H's financial circumstances before lending.

I think it would have been proportionate for Moneybarn to have verified Mr H's financial circumstances. One way Moneybarn could have done this was by requesting copies of his bank statements. I've reviewed three months of bank statements leading up to the lending decision.

The statements show that Mr H was struggling financially. He has provided evidence from two accounts. One account has his salary and child tax credit paid into it and is run with minimal funds as on the day income is received it is either used on expenses or transferred out to Mr H's other account. Mr H's other account shows the transfers and is used to cover his expenses including payments for housing costs, utilities, credit commitments, food and fuel. This account is continually in overdraft, incurring charges and has returned direct debits. Mr H's statements also show he was making frequent use of payday loans. Clearly Mr H 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 H should therefore only have to pay the original cash price of the car, being £17,433. Anything Mr H has paid in excess of that amount should be refunded as an overpayment.

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

- Refund any payments Mr H has made in excess of £17,433, 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 H's credit file regarding the agreement.

*HM Revenue & Customs requires Moneybarn to take off tax from this interest. Moneybarn must give Mr H a certificate showing how much tax it's taken off if Mr H 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 H to accept or reject my decision before 15 June 2022.

Jane Archer
Ombudsman