

The complaint

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

What happened

In September 2015, Mr O acquired a used car financed by a conditional sale agreement from Moneybarn. Mr O paid a deposit of £400 and was required to make 59 monthly repayments of £298. The total repayable under the agreement was £17,976.

Mr O says that Moneybarn didn't complete adequate affordability checks. He says if it had, it would have seen he was in an Individual Voluntary Arrangement (IVA) at the time and that the agreement wasn't affordable. Moneybarn didn't agree. It said that it carried out a thorough assessment which included receiving consent from Mr O's IVA practitioner regarding the agreement term and monthly payments. It said it received copies of Mr O's payslips which showed an average monthly income of around £2,500 and that Mr O met its lending criteria.

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

Moneybarn didn't respond to our investigator's view.

My provisional conclusions

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

- Before granting the finance, I thought Moneybarn gathered a reasonable amount of evidence and information from Mr O about his monthly income and based on this information an average monthly income figure of around £2,500 was reasonable.
- Moneybarn didn't ask Mr O about his expenditure. I thought this was particularly important given Mr O was in an IVA and so had previously experienced financial difficulties. It therefore didn't complete proportionate checks.
- I thought it would have been proportionate for Moneybarn to have verified Mr O's credit commitments and found out more about his committed expenditure, such as his living costs. I couldn't be sure exactly what Moneybarn would have found out if it had asked. In the absence of anything else, I thought it would be reasonable to place significant weight on the information contained in Mr O's bank statements as to what would most likely have been disclosed.
- Mr O's bank showed he paid an average of £1,400 for payday loans in the two months leading up to the agreement. He had taken out two new payday loans the month before the agreement suggesting that his reliance on this type of funding wasn't reducing. Additional to these loans, Mr O had other credit commitments and living expenses including utilities, food and transport. These averaged around £900 a

month giving total expenditure of around £2,300. This demonstrated that Mr O didn't have enough disposable income to afford the additional borrowing and given his reliance on payday loans I thought proportionate checks would have shown that providing further finance wasn't responsible. Moneybarn therefore didn't act fairly by approving the finance.

Both parties accepted my provisional 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.

As I set out in my provisional decision, I think it would have been proportionate for Moneybarn to have verified Mr O's credit commitments and found out more about his committed expenditure, such as his living costs. This was especially important given Mr O was in an IVA. Had these check happened I think Moneybarn would have realised the agreement was unaffordable for Mr O.

As both parties accepted my provisional decision, 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 O should therefore only have to pay the original cash price of the car, being £8,698. Anything Mr O has paid in excess of that amount should be refunded as an overpayment.

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

- End the agreement if it is still active and refund any payments Mr O has made in excess of £8,698, 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 O's credit file regarding the agreement.

*HM Revenue & Customs requires Moneybarn to take off tax from this interest. Moneybarn must give Mr O a certificate showing how much tax it's taken off if Mr O 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 O to accept or reject my decision before 20 June 2022.

Jane Archer
Ombudsman