

The complaint

Mr F complains that a conditional sale agreement he had for a car with Moneybarn No.1 Limited was unfairly terminated.

What happened

Mr F entered a conditional sale agreement for a used car with Moneybarn in February 2020. The purchase price was £11,467. Under the relevant terms of the agreement Mr F was required to pay 59 monthly repayments of £348.38 and he needed to keep the car comprehensively insured.

Mr F's income was impacted by the Covid-19 pandemic. He asked Moneybarn for assistance in March 2020 and it applied a three-month payment deferral to his account to cover his April, May and June 2020 instalments. Mr F says Moneybarn agreed to grant a second payment deferral to cover his March, April and May 2021 instalments over the phone. He says he was told to ignore any arrears letters and resume payments in June 2021. Mr F says that despite resuming his payments Moneybarn terminated his agreement for non-payment.

When Mr F complained to Moneybarn, it said it didn't approve the second payment deferral request because Mr F hadn't provided any documentation to show his income was impacted by Covid -19. In addition, it said Mr F was in breach of the agreement by not keeping the car insured, so it didn't think it had made a mistake when it terminated his agreement.

One of our investigators looked into Mr F's complaint. He didn't recommend the complaint be upheld. He said the call notes showed that Moneybarn had asked Mr F to provide documentation to show his income was impacted by the pandemic. As Mr F didn't provide the requested documentation and failed to keep the car insured, he didn't think it made a mistake when it didn't approve the deferral and when it subsequently terminated the agreement.

Mr F didn't think Moneybarn should have required any additional information to apply a second payment deferral in 2021. He wanted to keep the car, have his agreement reinstated and agree a repayment plan to clear the arrears. Mr F said he had explained to Moneybarn that the car was in the garage for repairs, and he would insure it once it was back on the road, in the circumstances he thought it was unfair for Moneybarn to terminate his agreement.

I issued a provisional decision dated 17 November 2022 setting out why I thought Mr F's complaint should be partially upheld. In summary I thought Moneybarn had made a mistake when it didn't grant Mr F a second three-month payment deferral in 2021, as Mr F had explained that the new January 2021 lockdown restrictions meant he was no longer able to meet his clients. And he completed an income and expenditure assessment which showed a deficit. I thought the relevant motor finance agreements and coronavirus guidance was intended for customers like Mr F who were affected by the Covid-19 pandemic and required quick, immediate short-term support, without the need for prolonged discussions, detailed checks or the provision of supporting documentation.

In the circumstances I thought it would have been fairer for Moneybarn to have granted Mr F a second three-month payment deferral in 2021, without requiring him to provide documentary evidence. However, I went on to say that I didn't think Moneybarn had made a mistake when it terminated Mr F's agreement, because he had failed to keep the car insured as required.

I hadn't seen any call notes where the failure to insure the car was discussed but was satisfied that Moneybarn had included the failure to insure in Mr F's default notice, which required him to provide it with a copy of a valid comprehensive insurance certificate before 6 May 2021. Mr F didn't do this, so even if Moneybarn had correctly treated his missing payments as deferred and not arrears, I thought Mr F was still in breach of the agreement. Whilst I appreciated that Mr F said he didn't insure the car because it was in the garage, I felt there was still a risk of damage or theft from the garage, in the circumstances I didn't think Moneybarn acted unfairly when it terminated the agreement.

To put things right, I provisionally directed Moneybarn to treat the missing payments between April to June 2020 and March to May 2021 as deferred and remove any adverse information (including the default) in respect of those periods from Mr F's credit file. I also said Moneybarn should come to a suitable arrangement with Mr F to repay the remaining deferred payments and any outstanding balance on the agreement.

I invited both parties to let me have any further evidence or arguments they wished to raise. Moneybarn accepts my provisional decision, Mr F hasn't responded.

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.

Having done so, I see no reason to reach a different conclusion to that which I reached in my provisional decision.

Putting things right

I think Moneybarn should have granted Mr F the second payment three-month deferral to cover his missing March to May 2021 payments. To put Mr F back in the position he would have been in, had the deferral been granted, Moneybarn should ensure that Mr F's credit file accurately reflects two periods of deferrals, totalling six months and remove any adverse information in relation to the deferred periods. Moneybarn should also come to a suitable arrangement to enable Mr F to repay any remaining deferred payments and repay the outstanding balance.

My final decision

My decision is that I partly uphold this complaint, and I direct Moneybarn No.1 Limited to do the following;

- treat the missing payments between April to June 2020 and March to May 2021 as deferred payments and remove any adverse information (including the default) from Mr F's credit file, in respect of those periods.
- come to a suitable arrangement with Mr F to repay the remaining deferred payments and any outstanding balance on the agreement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or

reject my decision before 2 February 2023.

Karen Dennis
Ombudsman