

The complaint

Mr M, who is represented by a third party, complains that Moneybarn No. 1 Limited ("Moneybarn") irresponsibly granted him a conditional sale he couldn't afford to repay.

What happened

In May 2016, Mr M acquired a used car financed by a conditional sale from Moneybarn. Mr M was required to make 60 monthly repayments of £449.99. Mr M also paid a deposit of £1,225. The total repayable under the agreement was £27,774.41.

Mr M got into difficulties with meeting his regular repayments. The agreement ended in May 2021 with Mr M agreeing a payment plan for the balance due.

Mr M 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 and although Mr M's payment history for the agreement had been sporadic, this wasn't something that was due to the checks Moneybarn had carried out before granting the credit.

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

As Moneybarn hasn't responded to our adjudicator's findings, despite reminders, the 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.

Moneybarn says the credit check completed showed that Mr M had defaulted on borrowing in the previous 12 months and that he'd had a county court judgment against him in the previous 24 months. Whilst Moneybarn says it was aware of these, given that there had been no further financial issues, it went ahead with the lending. I think, given the size and length of the lending it was considering offering to Mr M, Moneybarn ought to have recognised that there was a real risk that granting him this lending could easily contribute to a worsening of his financial situation. It therefore would have been proportionate for Moneybarn to have got a more thorough understanding of Mr M's financial circumstances before lending.

Although Moneybarn obtained confirmation of Mr M's pay by checking his payslips, which showed he was earning a net monthly income of around £1,900, I can't see that it asked him about his expenditure. Although it did complete a credit check, this won't have indicated

what Mr M's regular living expenses were. Without knowing more about Mr M's regular committed expenditure, Moneybarn wouldn't have got a reasonable understanding of whether the agreement was affordable or not. It therefore didn't complete proportionate checks.

I think it would have been proportionate for Moneybarn to have verified Mr M'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 details about Mr M's spending and committed expenditure at the time. I can see that Mr M was paying for housing costs and other daily outgoings, including maintenance support for his children and his other debt commitments. Mr M also provided us with a breakdown of his expenditure to help with understanding financial commitments at the time. From all this, I can see that before taking on the agreement he was paying between £1,900 and £2,000 each month. Even allowing for some variation each month, I think this demonstrates that Mr M didn't have enough disposable income to afford the additional £450 he'd have to pay each month under the agreement with Moneybarn. So I think there was a real risk that Mr M's financial situation would worsen significantly if by taking on the cost of paying for the car. I think it's likely proportionate checks would have revealed this to Moneybarn, it therefore didn't act fairly by approving the finance.

Putting things right – what Moneybarn needs to do

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 M should therefore only have to pay the original cash price of the car, being £12,435. Anything Mr M has paid in excess of that amount should be refunded as an overpayment.

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

- Refund any payments Mr M has made in excess of £12,435, 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 M's credit file regarding the agreement.

*HM Revenue & Customs requires Moneybarn to take off tax from this interest. Moneybarn must give Mr M a certificate showing how much tax it's taken off if Mr M 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 M to accept or reject my decision before 24 February 2023.

Michael Goldberg

Ombudsman