

## **The complaint**

Mr M complains that Moneybarn No 1 Limited terminated his finance agreement. He says he was told that he could enter into a payment plan but that instead Moneybarn issued court proceedings to obtain a return of goods order for the car.

## **What happened**

In September 2019 Mr M was supplied with a car and entered into a conditional sale agreement with Moneybarn.

Mr M fell behind with the payments and as a result the agreement was terminated on 6 August 2021.

Mr M contacted Moneybarn on 13 August 2021 and was provided with post termination options. He said he wanted to proceed with a consent order and provided details of his income and expenditure.

Mr M then discovered that Moneybarn had instructed solicitors to obtain a return of goods order for repossession of the car. He complained to Moneybarn.

In response, Moneybarn said that Mr M had missed several payments since the agreement was terminated. It said that because of Mr M's failure to make payments the arrears had increased and the request for the consent order had been declined and that it would continue with proceedings to recover the car.

Mr M wasn't happy with the response and complained to this service. He's unhappy that he was told he could do a consent order but that the solicitors then issued proceedings to take the car back.

## **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.

Mr M has said that his complaint isn't about the fact that Moneybarn terminated the agreement. It's about what happened afterwards.

For the sake of completeness, I've looked into the circumstances under which the agreement was terminated. Having done so, I can see that the agreement was in arrears and that a default notice was issued on 15 July 2021 requiring payment of the arrears in full by 4 August 2021. The arrears weren't paid so the agreement was terminated.

Based on what I've seen, I'm satisfied that Moneybarn terminated the agreement within the terms and conditions of the account. I can't say that Moneybarn made an error or terminated the account unfairly.

Following the termination of the agreement, I can see that Mr M contacted Moneybarn on 13 August 2021. Both parties agree that a consent order was discussed. Moneybarn asked Mr

Mr M provided details of his income and expenditure and to pay 25% of the arrears, which he did around one week later.

Moneybarn instructed solicitors to manage the case and the consent order. However, Mr M failed to make his monthly payment in September 2021 and October 2021. He made a payment in November 2021 but then missed payments for several months. This meant that the arrears on the account increased substantially.

Mr M contacted Moneybarn in December 2021 and said he'd become aware that the solicitors were looking at a possible repossession of the car. Mr M says he was assured by Moneybarn that it was a consent order which was being processed and not a return of goods order. Mr M says he left things for a few months because he was unable to contact the solicitors, but he then received paperwork from the court for a return of goods order.

Mr M complained to Moneybarn, who said that because monthly payments hadn't been maintained, Mr M no longer met the criteria for a consent order and that its solicitors were looking to obtain a return of goods order.

I appreciate that Mr M feels that he's been misled about the consent order. There's no dispute that Mr M's account was initially passed to solicitors to deal with a consent order. However, as Moneybarn has explained, a consent order is a discretionary process and because Mr M missed several payments, he no longer met the criteria for a consent order.

Mr M has said that Moneybarn didn't fully advise him about the consent order process and that it was Moneybarn who cancelled his direct debit. I haven't been able to listen to the calls between Moneybarn and Mr M which took place in August 2021 so I can't be certain of what was said. However, based on the fact that Mr M made a payment in November 2021, I think it's likely that he was aware of his ongoing obligation to make payments. Taking all the circumstances of the case into account, I don't think Moneybarn acted unfairly here. I won't be asking it to do anything further.

### **My final decision**

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 17 April 2023.

Emma Davy  
**Ombudsman**