

## **The complaint**

Mrs B complains that Moneybarn No. 1 Limited (“Moneybarn”) irresponsibly granted her a conditional sale agreement she couldn’t afford to repay.

## **What happened**

In August 2016, Mrs B acquired a used car financed by a conditional sale agreement from Moneybarn. Mrs B was required to make 60 monthly repayments of £575.33, having paid a deposit of £1,000. The total repayable under the agreement was £39,944.47.

Mrs B says that Moneybarn didn’t complete adequate affordability checks. She says if it had, it would have seen the agreement wasn’t affordable and that she had a poor credit situation. She also said that taking the finance worsened her already difficult financial situation. Moneybarn didn’t agree. It said that it carried out a thorough assessment which included obtaining proof of income and looking at her credit history.

Mrs B fell into arrears with her payments and it was therefore necessary for her to agree various payment plans with Moneybarn. The agreement was settled in full in May 2022.

Our investigator recommended the complaint be upheld. He thought Moneybarn ought to have realised the agreement wasn’t affordable to Mrs B.

Moneybarn didn’t agree and has asked to see copies of Mrs B’s bank statements from before she took out the agreement.

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.

Dealing first with Moneybarn’s request to see copies of the consumer’s bank statements, as our adjudicator has explained and Moneybarn will be aware, we do not routinely disclose these. I am also satisfied that bank statements I’ve seen from the time immediately before the agreement have been sufficient to gain a good idea of Mrs B’s financial situation at the time. I am not aware of a particular reason why it would be necessary to make an exception in this complaint, given that we have seen enough to be able to determine what proportionate checks would have shown Moneybarn at the time of the application process for the agreement.

Moneybarn hasn’t provided a copy of the credit check it completed. I’ve therefore relied on a copy of the credit file supplied by Mrs B, which I think is likely to give a fair indication of what

Moneybarn would have seen at the time. Our adjudicator has already set out in some detail evidence from Mrs B's own credit report demonstrating that in the year leading up to her applying for the agreement, Mrs B was missing payments on at least two accounts, had missed payments to a utility provider and had an arrangement to pay in place for a further account. I've also noted that by April 2016 Mrs B had was three months behind with her mortgage. In addition, she had a default registered against her credit file in February 2016 and another one in August 2015. She also had a county court judgment registered against her 41 months before the agreement. She also had an arrangement to pay in relation to her bank account and had missed a payment to her water utility provider as recently as May 2016. Generally, I've seen there was a pattern of consistently missing payments with other credit, with one set of missed payments running from July 2015 to July 2016 and another from September 2015 to May 2016.

I think all this shows that by the time Mrs B applied for the finance, she was already financially stretched. It therefore would have been proportionate for Moneybarn to have got a more thorough understanding of her financial circumstances before lending. I say this particularly taking into account that the agreement Mrs B was taking on was for five years and at relatively high monthly payment level.

Whilst I've seen that Moneybarn used payslip evidence from Mrs B to establish that she was receiving a monthly income (excluding bonus) of around £2,550 each month, plus a state benefit payment, I don't think this in itself would give a full enough picture of her financial circumstances. Moneybarn didn't ask Mrs B about their expenditure. Although it did complete a credit check, this on its own won't have indicated what Mrs B's regular living expenses were. Without knowing more about her living costs and regular committed expenditure, Moneybarn wouldn't have got a reasonable understanding of whether the agreement was affordable or not. I therefore don't think it did enough to complete proportionate checks.

Moneybarn says it used a statistical calculation to work out Mrs B's non-discretionary spending. But from what I've seen the credit check Moneybarn completed was likely to have shown that Mrs B was experiencing difficulty managing her credit. In those circumstances I think it would have been reasonable and proportionate to have taken steps to gain a good understanding of Mrs B's specific financial circumstances, rather than relying on an estimate. I say this especially given that there were very strong indicators that in the previous twelve months she had been struggling to meet credit payments. It follows that it would also have been proportionate for Moneybarn to have found out more about Mrs B's other committed expenditure, including her monthly living costs. I can't be sure exactly what Moneybarn would have found out if it had asked. In the absence of anything else, I think it would be reasonable to place significant weight on the information contained in Mrs B's bank statements as to what would most likely have been disclosed.

I've reviewed two months of bank statements leading up to the lending decision. These show that Mrs B was making frequent use of her overdraft to the extent of around £600, and so was incurring overdraft charges. She was also having direct debits and standing orders returned regularly. I agree that, taking into account her monthly outgoings and credit commitments, Mrs B likely had some disposable income of around £350, but this wouldn't be enough to meet the relatively high payment required under the agreement. I also think it's concerning that Mrs B was taking on a large, long-term credit commitment when her exposure to credit was so substantial with strong evidence of ongoing financial difficulty. Any disposable income Mrs B had was going to be against a background of a steadily deteriorating financial situation. I think all of this demonstrates that Mrs B didn't have enough disposable income to afford the additional borrowing. I therefore agree that Moneybarn 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. Mrs B should therefore only have to pay the original cash price of the car, being £12,350. Anything Mrs B has paid in excess of that amount should be refunded as an overpayment.

To settle Mrs B's complaint Moneybarn should do the following:

- Refund any payments Mrs B has made in excess of £12,350, 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 Mrs B's credit file regarding the agreement.

\*HM Revenue & Customs requires Moneybarn to take off tax from this interest. Moneybarn must give Mrs B a certificate showing how much tax it's taken off if Mrs B asks for one.

### **My final decision**

Your text here 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 Mrs B to accept or reject my decision before 20 April 2023.

Michael Goldberg  
**Ombudsman**