

The complaint

Mr M, with the assistance of an appointed representative, complains that Moneybarn No. 1 Limited ("Moneybarn") irresponsibly granted him finance (under a conditional sale agreement) he couldn't afford to repay.

What happened

In March 2017 Mr M entered into a conditional sale agreement for a used car costing £9,611.00.

Under the term of the agreement, everything else being equal, Mr M undertook to make 59 monthly payments of £314.74 making a total repayable of £18,569.66 at an APR of 34.9%.

In July and September 2018 Mr M entered into payment plans with Moneybarn.

In April 2019 Moneybarn issued Mr M with a default notice.

In May and July 2019 Mr M entered into payment plans with Moneybarn.

In November 2019 Mr M decided to voluntarily terminate his agreement, as was his right and Moneybarn sent him a final 'billing letter'.

In December 2021 Mr M entered into a payment plan with Moneybarn.

In January 2022 Mr M complained to Moneybarn that it had acted irresponsibly in lending to him in March 2017.

In March 2022 Moneybarn issued Mr M with a final response letter ("FRL"). Under cover of this FRL Moneybarn said it was satisfied it acted responsibly when lending to Mr M in March 2017.

In summary it said that before agreeing to lend it:

- undertook a full credit search to establish Mr M's current borrowing levels and repayment history (including arrears and defaults)
- verified Mr M's declared monthly income of £1,396.80 to four fortnightly pay slips
- it estimated Mr M's non-discretionary expenditure

And these checks allowed it to conclude:

- Mr M's existing borrowing levels were moderate
- there was one missed payment noted
- there was one or more defaults registered but the most recent was 34 months old and payments against this defaulted sum (and others) were being made
- there were no county court judgements recorded

- Mr M hadn't been declared insolvent
- Mr M had a surplus income of £349.20 from which to meet the proposed monthly agreement payment of £314.74

It also said that Mr M signed one or more documents to say that the monthly repayments were affordable, and he didn't envisage anything that would (during the term of the agreement) cause him to be able to not make each and every repayment on time.

Mr M's complaint was considered by one of our investigators who came to the view that it shouldn't be upheld. In summary he said he wasn't persuaded that Moneybarn had carried out proportionate 'lending' checks. But in the absence of anything from Mr M (such as bank statements and/or a copy of his credit file) to demonstrate what proportionate checks by Moneybarn might have 'uncovered' he couldn't reasonably conclude Moneybarn made an unfair lending decision.

Mr M didn't agree and sent the investigator bank statements and a copy of his credit file. The investigator considered what Mr M had sent him but wasn't persuaded to change his mind that Moneybarn hadn't made an unfair lending decision.

Because Mr M didn't agree with the investigators initial and subsequent view his complaint has been passed to me for review and 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 (and Mr M's appointed representative) 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. Information about our approach to these complaints is set out on our website.

Before agreeing to lend, I think Moneybarn gathered a reasonable amount of evidence and information from Mr M about his income. I say this because it verified his income by checking four fortnightly payslips from him.

Moneybarn hasn't provided a copy of the credit checks it completed. But based on what it says these checks 'uncovered' I, like the investigator, think it should have undertaken further checks into Mr M's financial position and personal circumstances to establish whether the lending it ultimately granted was affordable or not, especially in respect of his non-discretionary expenditure.

One of the ways that Moneybarn could have verified Mr M's expenditure was by reviewing his bank statements and/or by completing an income and expenditure form. While Moneybarn wasn't required to do either, I've reviewed three months of Mr M's bank statements. I think this gives me a good indication of what Moneybarn would likely have found out had it completed proportionate checks.

And having done so I can confirm that I'm in agreement with the investigator that reasonable and proportionate checks by Moneybarn wouldn't have, nor should it have, caused it to conclude that it shouldn't lend to Mr M. In coming to this view, I've had regard to the 'fact' that the statements Mr M has provided our service suggest he had very little by way of what could be described as non-discretionary expenditure, he never went overdrawn and no payments (such as standing orders and direct debits) went unpaid by his bank.

For the sake of completeness, I would also add that I've seen nothing in the credit report provided to our service by Mr M dated April 2021 that contradicts what Moneybarn says its credit check 'uncovered'.

Given what I say above I can confirm that I'm not persuaded that Moneybarn acted unfairly (or irresponsibly) in lending to Mr M in March 2017.

My final decision

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 4 July 2023.

Peter Cook
Ombudsman