

Complaint

Mr R complains that Moneybarn No. 1 Limited ("Moneybarn") unfairly entered into a conditional sale agreement with him. He's said that the monthly payments to this agreement were unaffordable.

Background

In August 2019, Moneybarn provided Mr R with finance for a used car. The purchase price of the vehicle was £6,198.00. Mr R paid a deposit of £1,088.00 and took out a conditional sale agreement with Moneybarn for the remaining £5,110.00. The loan had interest charges of £4,773.68. This meant that the total amount to be repaid of £9,883.68 (excluding Mr R's deposit) was due to be repaid in 59 monthly instalments of £167.52.

Mr R complained that the agreement was unaffordable and so should never have been provided to him. Moneybarn didn't uphold the complaint. It said that its checks confirmed that the finance was affordable and so it was reasonable to lend.

Mr R's complaint was considered by one of our adjudicators. He didn't think that Moneybarn had done anything wrong or treated Mr R unfairly. So he didn't recommend that Mr R's complaint should be upheld. Mr R disagreed with our adjudicator and the complaint was passed to an ombudsman for a final decision.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

We've explained how we handle complaints about irresponsible and unaffordable lending on our website. And I've used this approach to help me decide Mr R's complaint.

Moneybarn needed to make sure that it didn't lend irresponsibly. In practice, what this means is that Moneybarn needed to carry out proportionate checks to be able to understand whether any lending was sustainable for Mr R before providing it.

Our website sets out what we typically think about when deciding whether a lender's checks were proportionate. Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify that information – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low, the amount lent was high, or the information the lender had – such as a significantly impaired credit history – suggested the lender needed to know more about a prospective borrower's ability to repay.

Having carefully thought about everything I've been provided with, I'm not upholding Mr R's complaint. I'd like to explain why in a little more detail.

Moneybarn says it agreed to this application after Mr R provided details of his monthly income. It says it also carried out credit searches on Mr R which had shown Mr R had had previous difficulties with credit. It saw that Mr R had previous defaults and two county court judgments taken out against him. But when the amount owing plus a reasonable amount for Mr R's living expenses were deducted from his monthly income the monthly payments were still affordable. On the other hand, Mr R says his existing commitments meant that these payments were unaffordable and there was no way he was going to be able to maintain them.

I've thought about what Mr R and Moneybarn have said.

The first thing for me to say is that much like our adjudicator, I don't think that the checks Moneybarn carried out did go far enough. I don't think it was reasonable to rely on an estimate of Mr R's living costs given the adverse information on his credit file. But unlike Mr R, I don't think that the adverse information itself meant that Moneybarn shouldn't have lent to Mr R. Instead, I think it needed to obtain further information on Mr R's actual living costs before deciding to lend to him.

As Moneybarn didn't carry out sufficient checks, I've gone on to decide what I think Moneybarn is more likely than not to have seen had it obtained further information from Mr R. What I need to think about here is what did Moneybarn need to do in order to answer the questions its initial checks left unanswered – in other words, what were Mr R's actual regular living expenses (bearing in his credit commitments were already validated by the credit search)? – given this was a first agreement and Mr R was being provided with a car rather than cash.

The information Mr R has provided does appear to show that when his committed regular living expenses and existing credit commitments were deducted from his monthly income, he did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

I accept it's possible that Mr R's actual circumstances at the time might have been worse than what the information he's provided shows. But the key here is that it's only fair and reasonable for me to uphold a complaint in circumstances where a lender did something wrong. And I don't think that Moneybarn could possibly be expected to have known that the payments to this agreement were unaffordable bearing in mind that the information provided now doesn't clearly show that this is the case.

Overall and having carefully considered everything, while I don't think that Moneybarn's checks before entering into this conditional sale agreement with Mr R did go far enough, I'm satisfied that carrying out reasonable and proportionate checks won't have stopped Moneybarn from providing these funds, or entering into this agreement with him. So I'm satisfied that Moneybarn didn't act unfairly towards Mr R when it agreed to provide the funds.

As this is the case, I don't think that Moneybarn acted unfairly or unreasonably towards Mr R. So I'm not upholding this complaint. I appreciate that this will be disappointing for Mr R. But I hope he'll understand the reasons for my decision and at least consider that his concerns have been listened to.

My final decision

My final decision is that I'm not upholding Mr R's complaint.

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

reject my decision before 14 July 2023.

Jeshen Narayanan
Ombudsman