

The complaint

Mr C complains Moneybarn No.1 Limited (Moneybarn) irresponsibly approved a Conditional Sale agreement which he couldn't afford.

What happened

On 9 January 2019, Mr C entered into a Conditional Sale agreement with Moneybarn for a used car. The cash price was £4,100 and the total amount repayable was £8,245.84 with equal monthly repayments of £139.76 for 59 months. The APR was 37.7%.

Mr C is represented in his complaint. His representatives contacted Moneybarn to complain about the lending decision on 31 October 2022. The representatives explained Mr C had five accounts which had been active in the three-month period leading up to the lending decision. They also explained there had been four accounts defaulted and the debts had been passed to debt recovery companies and were still being paid off by Mr C at the time of the lending. Also, after entering the agreement and from September 2019, Mr C went on to make thirty late payments on other credit accounts. So, they said Moneybarn should not have provided additional finance.

Moneybarn responded and didn't uphold the complaint. It said it carried out a full credit search, independently verified Mr C's monthly income with a credit reference agency and used Office for National Statistics (ONS) data to estimate Mr C's disposable income. It said it also considered ongoing monthly borrowing and Mr C had confirmed he had stable employment. Also, it did have information about the defaults, but these had occurred more than 18-months before the agreement. It said the checks were proportionate and the information showed the agreement was affordable to Mr C. So, it didn't agree the lending decision had been irresponsible.

Our investigator set out their view that Moneybarn's checks hadn't been reasonable and proportionate because it didn't do enough to establish Mr C's accurate expenditure. However, she didn't recommend the complaint should be upheld on the basis that had Moneybarn carried out reasonable and proportionate checks it seems Mr C would have been able to sustainably make the repayments. Mr C's representatives confirmed they didn't agree with the view. So, the case has been passed to me to decide.

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.

Did Moneybarn complete reasonable and proportionate affordability checks?

Moneybarn were required to ensure it carried out adequate checks on Mr C's ability to sustainably afford the agreement. These checks had to be borrower-focused and proportionate. What is considered proportionate will vary depending on the circumstances, such as (but not limited to): the total amount repayable, the size of the monthly repayments, the term of the agreement and the consumer's specific circumstances.

Moneybarn said it completed a full credit search. It hasn't provided a copy of the results of its search. However, I've considered Mr C's credit file to see the information it was likely to have seen at the time of the agreement. I can see Mr C had four defaults between April and July 2017. The total defaulted amount was around £1,600. Mr C had also taken out seven payday loans between July 2018 and December 2018 which he settled on time.

Moneybarn said it independently verified monthly income of £1,500 with a credit reference agency. On the application Mr C said he was in full time employment as a supervisor. It said the check confirmed the credit money equal to net monthly income was received into Mr C's bank account over a reasonable period. It also said it considered if the income was generally in line with the stated occupation.

Moneybarn also explained it used statistical data from ONS to estimate Mr C's disposable income and non-discretionary expenditure. From this, it calculated his disposable income as being around £410.

However, I don't agree these were reasonable or proportionate checks to verify Mr C's expenditure. I'm mindful Mr C had adverse information on his credit file which fell within two years of the agreement. This shows he had previously experienced financial difficulty. Therefore, the statistical data was less likely to provide an accurate picture of Mr C's financial circumstances and disposable income. For these reasons, Moneybarn should have been prompted to carry out further checks.

Having thought carefully about the information Moneybarn gathered, I don't agree it completed reasonable and proportionate affordability checks. Moneybarn had information about Mr C's adverse credit history. In the circumstances, I think Moneybarn should have done more to establish Mr C's accurate monthly committed expenditure and disposable income to ensure the repayments were affordable and sustainable.

Would reasonable and proportionate checks have shown that Mr C would be able to repay the agreement without the repayments having a significant adverse impact on his financial situation?

I've considered what reasonable and proportionate checks would have looked like in the circumstances and whether it's likely to have been clear to Moneybarn that the agreement was affordable and sustainable. I think these checks should have included asking Mr C about his committed expenditure, and depending on what was said, verifying this by obtaining further information.

We've received bank statements for one of Mr C's accounts. His credit file shows he had a second current account, and our investigator made a reasonable request for the relevant statements from this account. They also asked about Mr C's living situation at the time of the lending decision and information about Mr C's committed expenditure (rent, utilities, and essential food shopping). I'm satisfied reasonable time and opportunity has been given to Mr C to provide the requested information. As it hasn't been received by our service, I've proceeded to make my decision based on the information I do have.

I've reviewed the bank statements which show some of Mr C's expenditure in the four-month period leading up to the agreement. I'm not saying Moneybarn needed to obtain bank statements as part of its lending checks. However, in absence of any further information, I think the bank statements will likely reflect Mr C's financial circumstances at the time.

Having considered the statements, I can see Mr C had an average income of around £2,150. This income was from his salary which was around £1,600 and supplemented by child tax

credits and benefits. I can also see some regular expenses such as television, phone bill and gym membership. As well as some committed expenditure, including repayments towards a loan of around £80 and repayments towards a debt of around £90. But there are also some payments missing which I would expect to see. For example, contributions towards rent and utilities.

Taking into account his income and expenditure as shown in the statements I've received; he seems to have had around £1,100 each month to cover other essential expenditure (not detailed on the statements) and the repayments. The monthly repayments for this agreement accounted for around 12% of this amount as they were £139.76. Based on what I've seen, I'm satisfied the amount remaining was likely to be sufficient to cover Mr C's other likely financial commitments. I'm also mindful that Mr C had spending which seems to have been ad hoc each month and which also indicates he would have been able to make the repayments without significant adverse impact.

I've also thought about Mr C's short-term borrowing. As mentioned, he had taken out seven short term loans between July 2018 and December 2018. The amounts borrowed ranged from £80 to £300. However, they were all paid on time. I'm also mindful that 18 months had passed since the defaults recorded on Mr C's credit file. Although Mr C was still making repayments towards the debt, he seemed to have sufficient disposable income and with the ad hoc spending I'm not persuaded this meant Moneybarn should have concluded Mr C wouldn't be able to make the repayments.

I don't have all the information which would enable me to say with certainty what Mr C's financial position was at the time of the lending decision. Nevertheless, having considered the evidence which has been provided, I'm satisfied had Moneybarn completed reasonable and proportionate affordability checks, it's likely it would still have concluded the agreement was affordable. Therefore, I don't think Moneybarn needs to do anything to put things right.

My final decision

For the reasons outlined above, I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 10 August 2023.

Laura Dean
Ombudsman