

The complaint

Mr G complains that Moneybarn No.1 Limited (Moneybarn) irresponsibly granted him a conditional sale agreement that he couldn't afford to repay.

What happened

In April 2019 Mr G acquired a vehicle financed by a conditional sale agreement from Moneybarn. Mr G paid a deposit of £2,500 and was required to make 59 monthly repayments of £333.31. The total amount repayable under the agreement was £22,165.29. Mr G believes Moneybarn failed to complete adequate affordability checks. Mr G says that if it had it would've been clear the agreement wasn't affordable because of the defaults and credit commitments he had at the time.

Moneybarn disagreed. It said it carried out an adequate assessment which included a full credit search, credit reference agency income verification and statistical estimation of his non-discretionary expenditure. It said these searches showed Mr G's existing borrowing levels were moderate and that whilst he had defaults, the most recent was 12 months prior to the application. Moneybarn said the searches showed these accounts were being well managed and there was no record of county court judgements on his file. It assessed his net disposable income as £1,734.25 a month and felt that the agreement was affordable, particularly as Mr G had signed confirming its affordability.

Our Investigator didn't recommend that the complaint should be upheld. They thought Moneybarn's checks weren't proportionate but that had it completed proportionate checks it would've still found the lending was affordable.

Mr G didn't agree. He felt that his income at the time of the application was inflated due to working overseas and that defaults on his credit file along with repeated borrowing from short-term lenders should have meant his application was declined. He asked for an Ombudsman to issue a final decision on the matter.

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.

Where evidence is incomplete, inconsistent, or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available evidence and wider circumstances.

We explain how we handle complaints about irresponsible and unaffordable lending on our website. I've used this approach to help me decide Mr G's complaint. Moneybarn needed to ensure that it didn't lend irresponsibly as per the rules set out in the FCA's Consumer Credit Sourcebook (CONC). In practice, what this means is that Moneybarn needed to carry out proportionate checks to be able to understand whether any lending was affordable for Mr G before providing it.

In this case, there are two overarching questions that I need to answer to fairly and reasonably decide Mr G's complaint. These two questions are:

1. Did Moneybarn complete reasonable and proportionate checks to satisfy itself that Mr G would be able to repay his loan without experiencing significant adverse consequences?
 - If so, did it make a fair lending decision?
 - If not, would those checks have shown that Mr G would've been able to do so?
2. Did Moneybarn act unfairly or unreasonably in some other way?

Did Moneybarn complete a reasonable and proportionate affordability check?

Moneybarn was required to ensure it carried out adequate checks on Mr G's ability to sustainably afford the agreement. These checks had to be borrower-focussed and proportionate (see CONC 5.2A). 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 (CONC 5.2A.20 R), and the consumer's specific circumstances.

Moneybarn says that Mr G's application underwent credit and underwriting checks, and these didn't raise any concerns. His income was verified against his employment, and Moneybarn also used statistical data to estimate the level of expenditure Mr G had at the time, combined with an estimate of his ongoing monthly borrowing commitments from his credit file. It felt that these searches were reasonable and proportionate in this scenario.

I'm not satisfied that Moneybarn gathered a reasonable amount of information from Mr G about his expenditure prior to approving the finance. I understand Moneybarn made the decision to lend on the basis that his accounts were being managed well and found the risk this posed to itself as acceptable. But I'm not satisfied enough consideration was given to the personal risk posed to Mr G.

Moneybarn hasn't provided a copy of the credit check it completed. So, I've relied on a copy of the credit file supplied by Mr G and I think it gives a relatively good indication of what Moneybarn would likely have seen. At the time of the application Mr G had defaulted on a loan agreement only 12 months prior to the application. The available credit file also shows a history of at least six payday loans in the two years prior to the finance being approved. I do think this all ought to have indicated Mr G may have been struggling financially and so I would've expected Moneybarn to take further consideration of Mr G's specific financial situation before approving any lending.

I want to be clear that I've considered Moneybarn's position about the number and type of checks that it did complete. And I understand that its searches attempted to approximate Mr G's disposable income. However, considering the possibility of financial difficulties in his specific circumstance I'm not satisfied that these checks adequately gathered a proportionate amount of information as they failed to answer how much he actually had left to spend after his existing commitments.

Given the size of the lending, the monthly repayments, the length of agreement, and the information in Mr G's credit file, I think it would have been proportionate for Moneybarn to have verified Mr G's expenditure – including costs such as food, petrol and housing. Without knowing what his regular committed expenditure was Moneybarn couldn't have got a reasonable understanding of whether the agreement was affordable for his circumstances.

As Moneybarn don't appear to have sought a reasonable understanding of Mr G's total committed expenditure, I don't think it carried out reasonable and proportionate affordability checks before lending. Moneybarn needed to do more in the circumstances before agreeing to lend. Without knowing what his regular committed expenditure was, Moneybarn wouldn't have got a reasonable understanding of whether the agreement was affordable for him.

I'm satisfied Moneybarn didn't complete proportionate affordability checks, but this doesn't automatically mean it failed to make a fair a lending decision.

Did Moneybarn make a fair lending decision?

I've considered what Moneybarn would likely have found out if it had completed reasonable and proportionate affordability checks. I can't be certain what Mr G would have told Moneybarn had it asked about his regular expenditure. I don't think Moneybarn necessarily needed to request bank statements, but in the absence of anything else, I've placed significant weight on the information contained in Mr G's statements from January 2019 to March 2019 as an indication of what would most likely have been disclosed.

Mr G has however highlighted that his income during these three months was inflated due to overseas work. And I'm satisfied from his submissions that Moneybarn would likely have found this out had it completed reasonable and proportionate affordability checks. I say this because any further checks about expenditure during this period would likely have shown an irregular amount of food and petrol spend due to him being abroad. And at the point of application Mr G's own declared monthly income to Moneybarn (£2,500) was an attempt at averaging between his "normal" and overseas pay. I think Mr G would have likely been forthcoming about these details. I'm satisfied proportionate checks would have most likely led to a more accurate picture of what his regular income and expenditure was expected to be over a longer and more sustainable period.

So, I want to be clear I've also considered statements from a further three months prior to the agreement in order to obtain a more accurate approximation of what he'd realistically expect to be earning and spending once the overseas work ended and he was primarily living in his place of residence. Again, I don't think Moneybarn necessarily needed to request these bank statements, but in the absence of anything else, I've placed significant weight on the information contained in them as an indication of what would most likely have been disclosed.

After removing his increased overseas pay the statements show Mr G was receiving an average of around £1,900 a month in income from his salary. His regular committed monthly expenditure at the time was around £1,250. In calculating these amounts I've included any applicable payments for his credit commitments, housing costs, utilities, food, fuel and other ongoing costs. I've also removed Mr G's previous motor finance agreement that was ended upon obtaining this conditional sale agreement.

Taking these figures into account, it appears to show the agreement was affordable for Mr G. Altogether his income and expenditure at the time satisfies me that the agreement did not appear to be unaffordable. On average Mr G was left with around £320 of disposable income after considering the monthly payments for the agreement. For this reason, I'm not persuaded that Moneybarn acted unfairly when approving the finance.

Mr G has suggested that the existence of defaults and short-term lending commitments on his credit file should have led to the application being declined. I agree that the information on his credit file meant Moneybarn should've completed further checks to understand if the agreement was affordable. But I can't agree that the existence of this data alone should have meant his application was automatically rejected.

I'm satisfied from the information provided that at the time the agreement was taken Mr G appeared to have sufficient disposable income to meet his monthly repayments and have money left over each month for emergency or unexpected costs. If Moneybarn had completed proportionate checks they would have likely revealed Mr G was able to sustainably afford the repayments owed under the agreement. So, it follows that I think Moneybarn made a fair lending decision.

Did Moneybarn act unfairly or unreasonably in some other way?

I'm not persuaded from the submissions made to date that Moneybarn acted unfairly or unreasonably in some other way.

My final decision

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 12 September 2023.

Paul Clarke
Ombudsman