

## **Complaint**

Mr M 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 May 2020, Moneybarn provided Mr M with finance for a used car. The purchase price of the vehicle was £5,050.00. Mr M paid a deposit of £100 and took out a conditional sale agreement with Moneybarn for the remaining £4,950.00. The loan had interest charges of £4,896.51. This meant that the total amount to be repaid of £9,846.51 (not including Mr M’s deposit of £100) was due to be repaid in 59 monthly instalments of £166.89.

Mr M 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 M’s complaint was considered by one of our adjudicators. He didn’t think that Moneybarn had done anything wrong or treated Mr M unfairly. So he didn’t recommend that Mr M’s complaint should be upheld. Mr M 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 M’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 M 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 M’s complaint. I’d like to explain why in a little more detail.

Moneybarn says it agreed to this application after Mr M provided details of his monthly income. It says it also carried out credit searches on Mr M which showed his existing borrowing levels were low and that he hadn't had obvious recent difficulties with credit such as defaults or county court judgments ("CCJ") against him. And when the repayments to Mr M's existing commitments plus a reasonable amount for Mr M's living expenses were deducted from his monthly income the repayments for this agreement were still affordable.

On the other hand, Mr M says he was already struggling with his existing commitments and had defaulted accounts, which meant that the payments to this agreement were unaffordable and there was no way he was going to be able to maintain them.

I've thought about what Mr M 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. For example, I'm not persuaded that it was reasonable to rely on an estimate of Mr M's living costs given the amount being borrowed, the total amount Mr M had to repay and the amount of the monthly payment Mr M had to make.

I think this is especially the case as Mr M had CCJs against him. Moneybarn might not have considered these recent but I still think that they were relevant. That said, I don't think that obtaining further information on Mr M's actual living costs would have made a difference to Moneybarn's decision to lend.

I say this because 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 M. 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 M'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 M was being provided with a car rather than cash.

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

Mr M says that the benefit payments going into the account weren't his. I accept it's possible that this is the case. But nonetheless it looks like Mr M's household expenditure was going from this account. And when all of this is deducted from what was going into the account, there was enough left over to make the payments to what was, in any event, going to be an asset that the household had the opportunity to benefit from.

I should also explain 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 M 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 M when it agreed to provide the funds.

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

Although I'm not upholding this complaint, I'd like remind Moneybarn of its obligation to exercise forbearance and due consideration should it intend to collect on the outstanding balance on Mr M's account and it be the case that he is experiencing financial difficulty.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 22 September 2023.

Jeshen Narayanan  
**Ombudsman**