DRN-4300794

Financial Ombudsman Service

The complaint

Mr M is complaining about Moneybarn No.1 Limited. He says they shouldn't have lent to him as the loan was unaffordable. A representative has brought the complaint on Mr M's behalf but for ease I've written as if we've dealt directly with Mr M.

What happened

In January 2019, Mr M took out a conditional loan agreement with Moneybarn, to finance the purchase of a car. He paid no deposit and borrowed £13,995, the cash price of the vehicle. The agreement required him to make 59 monthly repayments of £434.68. Mr M first missed a payment in March 2020 when a direct debit bounced. But he made that month's payment by card and was then granted a three-month payment holiday. Mr M made further payments later in 2020 but these stopped in November 2020. Moneybarn terminated the agreement in April 2021.

In February 2023, Mr M complained to Moneybarn, saying they were irresponsible in lending to him. He wanted them to transfer ownership of the car to him and remove the adverse marker from his credit file.

In response to Mr M's complaint, Moneybarn said they'd done a full credit search with one of the credit reference agencies (CRAs). They said this showed Mr M had defaulted on some previous borrowing but the most recent of these was 69 months prior to his application and he was paying back the sums owed. They said the credit report showed no County Court Judgments or insolvency information and it showed Mr M's existing borrowing and monthly credit commitments appeared affordable.

Moneybarn added that they'd checked Mr M's income using one of the CRA tools. This check uses information from a customer's current account to confirm regular income. They said they verified Mr M's monthly income of £2,500 and determined that this was in line with his stated employment in a sales position.

Moneybarn said they checked Mr M's credit commitments using the CRA and calculated his non-discretionary expenditure each month was £521.60. On that basis they decided he had disposable income of £1,978.40 each month and so the agreement was affordable.

Mr M wasn't happy with Moneybarn's response so brought his complaint to our service. He said he'd discussed his financial situation and budget constraints with the sales representative and was assured that the agreement would be tailored to meet his specific circumstances but it quickly became clear that the monthly payments were more than he could comfortably afford.

One of our investigators looked into the complaint. His view was that Moneybarn's checks hadn't been proportionate – but if they had, Moneybarn would have been able to fairly decide that the repayment was affordable and it was reasonable to lend to Mr M. Our investigator also looked into how Moneybarn had treated Mr M once he'd run into financial difficulties and said he thought Moneybarn had treated Mr M fairly.

Mr M rejected our investigator's view, saying that the amount of disposable income he'd calculated wasn't enough given the nature, age and mileage of the vehicle. He said these vehicles were renowned for being expensive to run and maintain. Because our investigator and Mr M couldn't reach an agreement, the complaint's come to me for a 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.

Having done so, and acknowledging it'll be disappointing for Mr M, I'm not upholding his complaint for broadly the same reasons as our investigator - I'll explain below.

The Financial Conduct Authority (FCA) sets out in a part of its handbook known as CONC what lenders must do when deciding whether or not to lend to a consumer. In summary, a firm must consider a customer's ability to make repayments under the agreement without having to borrow further to meet repayments or default on other obligations, and without the repayments having a significant adverse impact on the customer's financial situation.

CONC says a firm must carry out checks which are proportionate to the individual circumstances of each case.

Did Moneybarn carry out proportionate checks?

Moneybarn said they carried out the following checks:

- reviewed Mr M's credit file;
- verified his income using a CRA tool; and
- calculated his monthly non-discretionary expenditure at £521.60.

Whether or not these checks were proportionate depends on various factors, including the size and length of the loan, the cost of credit, and what Moneybarn found.

Moneybarn haven't kept a copy of the credit file they looked at but they've told us it showed Mr M had three outstanding defaults at the time but the most recent of these was 69 months old and the default balance had reduced significantly, from £3,600 to £1,300. Because Moneybarn's copy of Mr M's credit report isn't available, I've looked at the credit report Mr M provided.

Because of the time that's passed this only gives an indication of Mr M's credit status for the last 18 months prior to his application for this agreement but I'm satisfied that's enough to form an idea of Mr M's financial circumstances at the time. Mr M's credit report shows he had an existing hire purchase agreement at the time of taking out this new one. Mr M's copy of the credit report doesn't show anything else of any significance – I can't see any indicators that Mr M might have been in any financial difficulties at the time of his application to Moneybarn.

As well as checking Mr M's credit file, Moneybarn used a CRA tool to verify his income and ONS data to estimate his expenditure. CONC allows the use of statistical data, but in this case the statistical data Moneybarn used included no expenditure for housing costs. I've haven't seen any evidence of Mr M telling Moneybarn he had no housing costs. Even if Mr M didn't have housing costs at the time, it would be reasonably foreseeable that that wouldn't remain the case for the five-year term of the loan. In addition, given the size and term of the loan and the fact that Mr M already had a hire purchase agreement in place, I'm not satisfied it was proportionate for Moneybarn to use the CRA tool to determine Mr M's income.

On balance, I'm not satisfied Moneybarn carried out proportionate checks when assessing Mr M's application for finance.

What would Moneybarn have found if they had done proportionate checks?

A proportionate check would have involved Moneybarn finding out more about Mr M's income and expenditure to determine whether he'd be able to make the repayments in a sustainable way.

I've looked at statements for Mr M's main bank account for the two months leading up to his application to Moneybarn. I'm not saying Moneybarn needed to obtain bank statements as part of their lending checks. But in the absence of other information, bank statements provide a good indication of Mr M's income and expenditure at the time the lending decision was made.

The bank statements show that in the month to 14 December 2018, Mr M was still withdrawing funds from his business bank account, with the total being around £1,400. On top of this he had income of £1,300. On the statements this payment appears to come from a personal account, but the individual named is the director of the company Mr M was working for, so I'm satisfied it was employment income. In the following two months, Mr M received £2,100 and £2,300 respectively from the same source (but none from his business which had stopped trading). So it would have been reasonable for Moneybarn to determine Mr M's monthly income was at least £2,100.

Looking at regular payments from Mr M's bank statements, I can see he was spending £675 per month on rent. This appears to have included rates and bills as I can't see any other spending on those. He spent on average £200 per month on fuel, £120 per month on car insurance, and £28 per month on road tax. He was also spending around £180 per month on TV and mobile phone costs, and £40 per month on a gym membership. It appears that Mr M was no longer making payments for his existing hire purchase agreement – there was a single payment of £30 in January 2019 and the agreement was shown as settled on his credit file not long after.

In summary, Mr M had committed or non-discretionary expenditure at the time of around £1,250. Adding on the monthly repayments for this agreement of £434 takes his expenditure to £1,684. Deducting this from Mr M's income of £2,100 left him with £416 per month to cover food and discretionary spending. Mr M's argued that the car he was financing under the agreement was known for being expensive to run and has given an example of a new set of tyres being £800. But I think there's enough headroom in my income and expenditure assessment to cover the maintenance costs of the car. I'm satisfied that Moneybarn could have fairly decided the lending was affordable.

Did Moneybarn act unfairly in any other way?

I've reviewed Moneybarn's statement of account for Mr M and their detailed notes of their contact with Mr M. I can see Moneybarn granted Mr M a three-month payment holiday in March 2020 when Mr M advised them of his financial difficulties. And I can see that when he asked for a further payment holiday the following year, Moneybarn asked Mr M to provide documents proving his redundancy. He didn't provide the documents so I can't say Moneybarn should have allowed him the payment holiday.

I can see Moneybarn tried to maintain contact with Mr M but were unable to get hold of him on a number of occasions. In the end they terminated the agreement and marked the account as defaulted. I can't say this was unfair – from what I've seen, Moneybarn gave Mr M enough notice and treated him with forbearance and due consideration over the duration of the agreement.

My final decision

As I've explained above, I'm not upholding Mr M's complaint about Moneybarn No. 1 Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 14 November 2023.

Clare King
Ombudsman