DRN-4307528

The complaint

Mr L complains that Moneybarn No. 1 Limited ("Moneybarn") irresponsibly approved a conditional sale agreement with him that he couldn't afford.

What happened

In November 2018 Mr L used a conditional sale agreement from Moneybarn to acquire a used car. The agreement required Mr L to make 59 monthly payments of £312. The sale price of the car was £8,347, which combined with the cost of the finance gave a total of £18,817 to pay.

Mr L fell into arrears on the agreement about six months later. Problems persisted, with Moneybarn sending warnings he might default in 2020 and 2021. But with the help of payment plans Mr L was able to continue meeting his commitments under the agreement. In July 2022 Moneybarn waived £5,589 still owed, ending the agreement and giving ownership of the car to Mr L.

With the help of a representative, Mr L complained in January 2023 that lending to him had been irresponsible and unaffordable. Moneybarn responded in May 2023, saying they felt their decision to lend to Mr L had been reasonable.

Moneybarn said they'd carried out a full credit search before lending. And they've shown us payslips Mr L provided that they'd used to consider his income. Moneybarn said they compared that with data from the Office for National Statistics to conclude Mr L had sufficient disposable income to afford the monthly payments needed by the agreement.

Mr L wasn't happy with this response, so the complaint came to us. One of our investigators took note of the size of the loan and some credit agreements Mr L had defaulted on in the months before applying for the finance. They felt these should have prompted Moneybarn to do more detailed checks before lending to Mr L. But our investigator felt the information about Mr L's income and expenditure at the time showed it would have been reasonable for Moneybarn to lend to him, even with better checks.

Mr L didn't agree with that view. His representative felt more should have been done to consider Mr L's personal circumstances in 2018. Unresolved, the complaint's come to me for a final 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.

I'll explain below why I've decided Moneybarn don't need to do anything more to resolve this complaint. That means I'm not upholding it, even though I've found Moneybarn should have done more to check Mr L could afford to repay the money he borrowed.

The rules that apply to credit agreements are set out in the consumer credit sourcebook

(“CONC”) of the Financial Conduct Authority’s handbook. Section 5.2A of CONC is relevant here, as – among other things – it talks about the need for businesses like Moneybarn to complete reasonable and proportionate creditworthiness assessments before agreeing to lend someone money.

I’m going to consider these rules in the following stages:

1. Did Moneybarn complete reasonable and proportionate checks to satisfy itself that Mr L would be able to sustainably repay the borrowing?

2. If they did, was their decision to then lend to Mr L fair? If they didn’t, would reasonable and proportionate checks have shown that Mr L could sustainably repay the borrowing?

<u>Did Moneybarn complete reasonable and proportionate checks to satisfy itself that Mr L would be able to sustainably repay the borrowing?</u>

What’s considered reasonable and proportionate will vary depending on the details of the borrowing and the borrower’s individual circumstances.

Here, the borrowing was to last for a long time – five years – with a significant monthly commitment – £312. That created a need for Moneybarn to complete a thorough check of Mr L’s circumstances at the time.

Moneybarn went some way towards doing that, by getting copies of Mr L’s payslips. That would have given them a reasonable insight about the money he had available each month.

Balanced against that was statistical data about typical outgoings. The guidelines in CONC say this would be acceptable unless there was other information to tell Moneybarn that the data they were using wasn’t reasonably representative of Mr L’s situation.

Moneybarn confirm they completed a check of Mr L’s credit record. I’ve seen a recent version of this, which includes some of the details that Moneybarn could have seen in November 2018.

The credit record suggests Mr L’s situation was somewhat different to the typical person represented by the ONS data. Mr L had defaulted on seven credit agreements in the six months prior to his application with Moneybarn.

That should have prompted Moneybarn to ask Mr L for more details about his specific outgoings, and the reasons for the defaults. They don’t appear to have done that, so I find that the checks they completed weren’t reasonable.

<u>Would reasonable and proportionate checks have shown that Mr L could sustainably repay the borrowing?</u>

I can’t be certain what Moneybarn would have asked for from Mr L to confirm his expenditure and the details of his previous borrowing. I’ve seen bank statements Mr L’s provided from the time though, which give me some insight into what Moneybarn could have seen, if they’d completed a reasonable and proportionate check in this case.

From those statements, I can see Mr L’s committed spending wasn’t any more than the ONS data used by Moneybarn had suggested it would be. Mr L did spend all of his income each month, plus more that he borrowed from his partner. But most of that spending was on discretionary items – things Mr L had a choice about spending his money on.

From this, Moneybarn could reasonably have concluded Mr L would be able to afford the payments needed by the agreement they were considering giving him.

I've thought about whether Moneybarn should have done more to factor the seven defaults in the six months prior to November 2018 into their decision. I can appreciate these showed Mr L might not make the payments needed under the agreement. But I can't see there was anything Moneybarn could have seen that showed these defaults were caused by issues the guidelines – specifically in CONC 5.2A.22 – say they should have considered.

While I can appreciate Mr L has now told us he was receiving treatment for anxiety and depression, that wouldn't necessarily have been apparent to Moneybarn at the time. Mr L would have needed to tell them about it, which I can't be sure he would have done even if asked about the circumstance behind the defaults.

The defaults on their own don't point towards Mr L being vulnerable in some way, but would be consistent with him being in financial difficulties. So, as I've explained above, this should have prompted Moneybarn to do more checks. But Mr L's bank statements suggest he had the money he needed to afford the agreements; the issue was more how he chose to spend his money. So the cause of the defaults seems not to have been a financial difficulty, but instead the result of how Mr L chose to manage his money and prioritise his spending.

That would have been a factor in how much of a risk Moneybarn were willing to take lending to Mr L. But that was a risk they could choose to take if they wanted. The information I've seen all suggests the risk of this agreement being unaffordable for Mr L was low, due to how his salary compared to his committed expenses.

As such, I don't consider it was irresponsible for Moneybarn to lend to Mr L in this instance. He appeared to have the money needed to be able to afford his committed expenses and this agreement.

My final decision

I've decided not to uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 27 October 2023.

Paul Mellor
Ombudsman