

Complaint

Mr K 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 October 2017, Moneybarn provided Mr K with finance for a used car. The purchase price of the vehicle was £6,100.00. Mr K paid a deposit of £400 and took out a conditional sale agreement, over 60 months, with Moneybarn for the remaining £5,700.00. The loan had interest charges of £8,208.07. This meant that the total amount to be repaid of £13,908.07 (not including Mr K's deposit of £400) was due to be repaid in 59 monthly instalments of £235.73.

Mr K 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 K's complaint was considered by one of our investigators. He didn't think that Moneybarn had done anything wrong or treated Mr K unfairly. So he didn't recommend that Mr K's complaint should be upheld. Mr K disagreed with our investigator 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 K's complaint.

Having carefully thought about everything I've been provided with, I'm not upholding Mr K's complaint. I'd like to explain why in a little more detail.

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 K 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.

Moneybarn says it agreed to this application after Mr K provided details of his monthly income. It says it also carried out credit searches on Mr K which had shown Mr K had low existing borrowing and no recent defaults or county court judgments ("CCJ") taken out against him. And when the amount owing plus a reasonable amount for Mr K's living expenses were deducted from his monthly income the monthly payments for this agreement were still affordable.

On the other hand, Mr K says his existing commitments meant that these payments were unaffordable and there was no way he was going to be able to maintain them.

I've thought about what Mr K and Moneybarn have said.

The first thing for me to say is that I'm not persuaded 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 K's living costs given Moneybarn saw an outstanding default on its credit search. Moneybarn says that this wasn't recent but, in any event, I do think that this ought to have led Moneybarn to do more to verify Mr K's actual expenditure. That said, I don't think that obtaining further information on Mr K's actual living costs would have made a difference to Moneybarn's decision to lend in this instance.

I say this because the information Mr K has provided about his finances at the time appears to show that when his committed regular living expenses and existing credit commitments were deducted from his monthly income, he did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

I accept it's possible that Mr K's actual circumstances at the time might have been worse than what the information he's provided shows. I know that he says he was in rent arrears and council tax arrears. But I can't see that this is the case in the information he's now provided. And while Mr K says that he would have disclosed this to Moneybarn if asked, I don't see why Moneybarn would have had reason to suspect any such arrears given what the information it had at the time demonstrated.

Furthermore, and perhaps only for the sake of completeness, I would add that even if I were to accept that Moneybarn should have asked Mr K was in rent and council tax arrears, I wish to make it clear that I do not, I cannot place much weight on what Mr K now says he would have disclosed at the time. I say this because Mr K's current submissions are geared towards reaching a successful outcome on his complaint. Whereas at the time, anything Mr K would have told Moneybarn would have been geared towards being accepted for the finance.

I find it difficult to accept that Mr K would have disclosed that he had rent and council tax arrears, knowing not only the impact that this would have on his application but also knowing what he did about his ability to make the monthly payments, in circumstances where he had decided that this was the time he wished to purchase a vehicle. I'm afraid I find Mr K's submissions on this matter to be unpersuasive and implausible and as such I cannot reasonably place any weight on them.

In any event, the key here is 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.

So overall and having carefully considered everything, while I'm not persuaded that Moneybarn's checks before entering into this conditional sale agreement with Mr K 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.

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

My final decision

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

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

Jeshen Narayanan
Ombudsman