

The complaint

Mr S is complaining about Moneybarn No.1 Limited. He says they shouldn't have lent to him as the loan was unaffordable. Mr S's complaint was brought to our service by a representative but for ease I've written as if we've dealt directly with him.

What happened

In October 2017, Mr S took out a conditional loan agreement with Moneybarn, to finance the purchase of a car. Mr S paid a deposit of £400 and borrowed £9,755, to pay the cash price of £10,155. The agreement required him to make 59 monthly repayments of £362.73. Mr S first missed a payment in October 2021 when a direct debit bounced. He made most payments after that by card and made a final payment in October 2022, settling the balance in full.

In February 2023, Mr S complained to Moneybarn, saying they shouldn't have lent to him because the loan was unaffordable. He said Moneybarn hadn't conducted thorough, appropriate and reasonable checks when deciding to lend to him. Mr S said he'd been repeatedly using a payday lender immediately prior to taking out the loan which should have led Moneybarn to consider his bank statements. And if they'd looked at those they'd have seen that he didn't have £362 spare each month with which to make the necessary payments. Mr S added that he'd had to borrow further to pay for the vehicle.

In response, Moneybarn said they'd checked Mr S's monthly income at the time by reviewing his payslips. And they'd done a full credit search with one of the credit reference agencies. They said they'd made reasonable considerations for his non-discretionary expenditure before calculating Mr S's monthly repayment.

Moneybarn said these checks suggested Mr S's borrowing levels appeared affordable. They could see Mr S had previously defaulted on some borrowing – but the most recent of these was 19 months prior to his application and he was making contributions to pay off the debts, so this didn't cause concern.

Mr S wasn't happy with Moneybarn's response so brought his complaint to our service and one of our investigators looked into it. His view was that Moneybarn had carried out proportionate checks and that they'd made a fair lending decision. Mr S disagreed and asked for an ombudsman to review his complaint – and it's come to me.

My view was a little different from our investigator's, so I issued a provisional decision on 31 August 2023. In that decision I said:

“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 say they checked Mr S's credit file. They've not kept a copy of the credit file so I can't see what they looked at. They've told us Mr S had five outstanding defaults, the most recent of which was 19 months old at the time of the lending decision – but no active credit commitments. They've said the credit file showed Mr S had around £2,000 outstanding on his defaults, against original default balances totalling £3,300.

Mr S hasn't disputed what Moneybarn said about his credit file but he has told us he was using a payday lender at the time. Because Moneybarn haven't provided the credit report they looked at it's difficult to say whether or not the payday lending appeared on the credit file.

Moneybarn also checked Mr S's income by looking at his payslips. They verified his average income was around £1,640 per month. They said the loan repayments were low compared to Mr S's income so the agreement was affordable for him – but I can't see they made any assessment of Mr S's likely expenditure in determining this.

When considering whether these checks were proportionate, I have to think about things like the total amount Mr S would have to repay and the cost of the credit, and what Moneybarn knew about Mr S's financial position and his credit history at the time. This agreement required Mr S to pay nearly £22,000 to Moneybarn over a 5 year period, so it was a significant financial commitment for someone on a relatively low income. In addition, the cost of the credit was high, with an APR of 44.4%.

Moneybarn knew Mr S had previous defaults, and that he was making repayments against those defaults. I've seen no evidence that they tried to establish how much he was paying. And, as mentioned above, I can't be sure they weren't aware that Mr S was using a payday lender. On balance, I'm inclined to say Moneybarn's checks weren't proportionate – the amount lent was significant and at a high interest rate, and Mr S was using a payday lender at the time as well as making regular payments against his defaulted debts.

If Moneybarn had carried out proportionate checks, what would they have found?

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

I've looked at statements for Mr S's bank account for the three months preceding his application to Moneybarn – August, September and October 2017. 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 S's financial circumstances at the time the lending decision was made.

These statements confirm Mr S's income was, on average, around £1,640 per month. They also show he was paying £130 per month to debt collection agencies, £22 per month for insurance, £16 to the DVLA and an average of £65 per month for his mobile phone. These monthly commitments total around £230. I couldn't see any amounts on Mr S's bank statements for rent or bills so asked him about this. He told us he was taking cash out to pay a friend he was staying with, as well as contributing to the household by paying for various sundries. He's not given us an amount but on average the total of this cash and sundries looks to have been around £400 per month. He also sent an average of £275 per month overseas to repay a personal debt.

In total, then, Mr S had commitments of around £900 per month before the hire purchase agreement, and £1,270 including the repayments under the new agreement. Taking this total from his income of £1,640 would have left him with around £370 per month for food, fuel, and other essentials. I'm inclined to say it would have been reasonable for Moneybarn to decide this was enough for a single person in shared accommodation and therefore that the loan was affordable for Mr S.

I'm aware Mr S has said he didn't have £363 to spare each month. And it's true that his bank statements show his outgoings broadly matched his incomings each month rather than having any significant amount of surplus. But I don't think this is a fair reflection of what would have been affordable for him – his statements appear to include a reasonable amount of discretionary expenditure.

I'm also aware Mr S was using a payday lender. He was consistently borrowing around £400 - £500 each month and repaying it each month before borrowing again. Although I appreciate payday lending was an expensive form of credit, I don't think this is enough to say Moneybarn shouldn't have lent to Mr S – people have different ways of managing their finances and it wouldn't have been fair to refuse to lend to Mr S simply because he was using payday lending as a form of revolving credit.

In conclusion, although I've not seen enough evidence to say Moneybarn did proportionate checks, I'm inclined to say it would have been reasonable for them to decide to lend to Mr S if they'd found out more about his financial position at the time."

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.

Neither party has responded to my provisional decision – so my findings remain unchanged.

My final decision

As I've explained above, I'm not upholding Mr S's complaint about Moneybarn No. 1 Limited. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 31 October 2023.

Clare King
Ombudsman