

## **Complaint**

Mr D 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 January 2020, Moneybarn provided Mr D with finance for a used car. The purchase price of the vehicle was £8,990.00. Mr D didn't pay a deposit and took out a conditional sale agreement with Moneybarn for the entire £8,990.00. The loan had interest and charges of £8,339.07 and a 60-month term. This meant that the total amount to be repaid of £17,389.07 was due to be repaid in 59 monthly instalments of £294.73.

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

Having carefully thought about everything I've been provided with, I'm not upholding Mr D'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 D 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 D provided details of his monthly income. It says it also carried out credit searches on Mr D which had shown Mr D had previously defaulted on credit and Mr D also had a county court judgment (“CCJ”) taken out against him.

Nonetheless, in Moneybarn’s view, when the amount Mr D already owed plus a reasonable amount for Mr D’s living expenses were deducted from his monthly income the monthly payments for this agreement were still affordable.

On the other hand, Mr D 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 D 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 D’s living costs given what Moneybarn saw on the credit search it carried out. And I think that this ought to have led Moneybarn to do more to verify Mr D’s actual regular living costs. That said, I don’t think that obtaining further information on Mr D’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 D 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 D’s actual circumstances at the time might have been worse than what the information he’s provided shows. For example, I’ve seen that Mr D has said that his income was inflated because of overtime and that this didn’t continue. But 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 Mr D would no longer be able to work overtime going forward, bearing in mind that Mr D is unlikely to have known this himself at this stage.

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 D 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 D. So I’m not upholding this complaint. I appreciate that this will be disappointing for Mr D. 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 Mr D’s complaint, I would remind Moneybarn of its obligation to exercise forbearance and due consideration in the event that it intends to collect the remaining payments on the agreement and Mr D is experiencing financial difficulty.

### **My final decision**

My final decision is that I’m not upholding Mr D’s complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 11 December 2023.

Jeshen Narayanan  
**Ombudsman**