

Complaint

Miss S complains that Moneybarn No.1 Ltd ("Moneybarn") unfairly entered into a conditional-sale agreement with her. She's said the agreement was unaffordable and so she shouldn't have been accepted for it.

Background

In May 2019, Moneybarn provided Miss S with finance for a used car. The cash price of the vehicle was £5,250.00. Miss S paid a deposit of £100 and entered into a 60-month conditional sale agreement with Moneybarn for the remaining £5,150.00. The loan had interest, fees and total charges of £4,924.84 and the total amount to be repaid of £10,074.84 (not including Miss S' deposit) was due to be repaid in 59 monthly instalments of £170.76.

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

Having carefully thought about everything I've been provided with, I'm not upholding Miss 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 Miss S could make her payments in a sustainable manner before agreeing to lend to her. And if the checks Moneybarn carried out weren't sufficient, I then need to consider what reasonable and proportionate checks are likely to have shown.

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 it completed an income and expenditure assessment on Miss S. During this assessment, Miss S provided details of her monthly

income, which Moneybarn took steps to cross reference against information going into her bank account. This information was obtained from a credit reference agency and Moneybarn says it also carried out credit searches on Miss S which showed that Miss S had no County Court Judgments but she had some defaults with the most recent being four months or so prior to this application.

That said, when the amount Miss S already owed plus a reasonable amount for Miss S' living expenses, based on average data, were deducted from her monthly income the monthly payments were still affordable. On the other hand, Miss S says she was already struggling at the time and that these payments were unaffordable.

I've thought about what Miss S and Moneybarn have said.

The first thing for me to say is that I don't think that the checks Moneybarn carried out did go far enough. In my view, Moneybarn will have seen adverse information recorded on Miss S' credit file as a result of the credit search carried out. So I'm satisfied that Moneybarn needed to take further steps to ascertain Miss S' actual living costs, rather than rely on average data, in order for its checks to have been proportionate.

As Moneybarn didn't carry out sufficient checks, I'd normally go on to decide what I think Moneybarn is more likely than not to have seen had it obtained further information from Miss S. Given the circumstances here, I would have expected Moneybarn to have had a reasonable understanding about Miss S' regular living expenses as well as her income and existing credit commitments.

To be clear, I'm not going to carry out a forensic analysis of Miss S' bank statements in order to assess whether the loan payments were affordable. I'm simply going to consider what Moneybarn is likely to have done if it obtained the information I think it should have done, which is get an understanding of Miss S' living costs.

I've considered the information Miss S has provided us with. And having done so, this information does appear to show that when Miss S' committed regular living expenses and existing credit commitments are deducted from the cross-checked monthly income provided, she did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

I accept that the information Miss S has now provided – in the form of bank statements – do suggest that Miss S' declaration of income may have been inaccurate. But Moneybarn took steps to cross reference this with information from credit reference agencies and this did not show up a discrepancy.

I appreciate what Miss S has said about the final response and the credit reference agency information being inaccurate. But my investigation has been independent of the content of Moneybarn's final response. And in my view given what the cross-checking showed, I think that Moneybarn was entitled to rely on Miss S' declaration of income. I don't think that it would be fair and reasonable for me to substitute Miss S' actual income for what was declared at the time bearing in mind what the cross-check showed.

So overall and having carefully considered everything, while I don't think that Moneybarn's checks before entering into this conditional-sale agreement with Miss S did go far enough, I'm satisfied that Moneybarn doing more here won't have prevented it from providing these funds, or entering into this agreement with Miss S.

Overall I've therefore not been persuaded that Moneybarn acted unfairly towards Miss S when it lent to her and I'm not upholding Miss S' complaint. I appreciate that this will be very

disappointing for Miss S. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

Although I'm not upholding Miss S' complaint, I would remind Moneybarn of its obligation to exercise forbearance and due consideration (bearing in mind what it is now aware of) in the event that it intends to collect the outstanding balance remaining and Miss S is experiencing financial difficulty.

My final decision

My final decision is that I'm not upholding Miss S' complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 9 January 2024.

Jeshen Narayanan
Ombudsman