

## **The complaint**

Mr R believes Moneybarn No.1 Limited acted irresponsibly by agreeing a conditional sale agreement he'd applied for.

Mr R is being represented in this complaint by Company I. However, for ease of reference, I'll refer to any comments or actions by Company I as being made or done by Mr R.

## **What happened**

In January 2018, Mr R was supplied with a used car through a conditional sale agreement with Moneybarn. The agreement was for £5,995 over 60 months; with monthly payments of £205.33.

Mr R has complained that Moneybarn didn't act responsibly when approving the finance. He's said that he had a poor credit history, had recently defaulted on a credit agreement, and was in a debt management plan. So, he didn't think the payments were affordable.

Moneybarn considered this complaint, but they thought they'd done adequate checks, which showed that Mr R could afford the payments. And they didn't uphold his complaint.

Mr R wasn't happy with this, so he brought his complaint to us for investigation.

Our investigator said Moneybarn were unable to evidence all the checks they did for Mr R, and the average income figure they'd used included overtime that wasn't a regular feature of Mr R's income. So, she didn't think Moneybarn had carried out proportionate checks.

The investigator considered Mr R's bank statements from the time of his application to Moneybarn, to establish what his monthly income and expenditure was. And she thought this showed the agreement was affordable to Mr R at the time. So, she didn't think Moneybarn had done anything wrong when approving the finance.

Mr R didn't agree with the investigator. He said that his credit file showed his true financial position at the time of the application, which included his defaults and reliance upon short-term high interest loans (otherwise known as payday loans) He also said that his bank statements showed he was in financial hardship and that Moneybarn should've carried out more checks and gained a more thorough understanding of his financial circumstances before approving the finance. And he asked for an ombudsman to make 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.

When someone complains about irresponsible and/or unaffordable lending, there are two overarching questions I need to consider in order to decide what's fair and reasonable in all of the circumstances of the complaint. These are:

1. Did Moneybarn complete reasonable and proportionate checks to satisfy itself that Mr R would be able to repay the credit in a sustainable way?
  - a. if so, did Moneybarn make a fair lending decision?
  - b. if not, would reasonable and proportionate checks have shown that Mr R could sustainably repay the borrowing?
2. Did Moneybarn act unfairly or unreasonably in some other way?

And, if I determine that Moneybarn didn't act fairly and reasonably when considering Mr R's application, I'll also consider what I think is a fair way to put things right.

*Did Moneybarn complete reasonable and proportionate checks to satisfy itself that Mr R would be able to repay the credit in a sustainable way?*

There's no set list for what reasonable and proportionate checks are, but I'd expect lenders to consider things such as the amount, duration, and payments of the finance being applied for, as well as the borrowers' personal circumstances at the time of each application.

Moneybarn have explained that they checked Mr R's credit file and verified his income from two recent payslips. They then applied an affordability calculation, which showed he could sustain a monthly payment of up to £637 a month.

Moneybarn have provided copies of the payslips they used to verify Mr R's income, which they said averaged £2,547 a month. While this is the case, the November 2017 payslip included a large amount of weekend overtime pay, which didn't appear on the December 2017 payslip. However, when looking at the year-to-date income information on the payslips, this indicated that Mr R received around £5,000 a year overtime.

As such, while the investigator considered differently, I'm satisfied it was reasonable to consider the November 2017 overtime when calculating Mr R's income.

However, Moneybarn haven't provided a copy of the credit file they considered when looking at Mr R's application. As such, I can't be satisfied that all the checks they carried out were reasonable and proportionate. Therefore, I've gone on to consider what Moneybarn would likely have found had reasonable and proportionate checks been carried out.

*Would reasonable and proportionate checks have shown that Mr R would be able to repay the credit in a sustainable way?*

Mr R has provided an up-to-date copy of his credit report. As this also shows historic data, I'm satisfied this will give a good indication of what Moneybarn would've seen on the credit file they obtained when they considered his finance application.

This report shows that Mr R's bank account was conducted within any overdraft limit, and that his current credit commitments were all paid on time, with no arrears. It also showed that Mr R was regularly using payday loans.

The credit report also showed that Mr R had four defaults – two in March 2017, one in July 2017, and one in December 2017. However, as the loan was approved in January 2018, and given that credit providers usually update the credit reference agencies monthly; I think it's highly unlikely that the December 2017 default would show on the credit search Moneybarn undertook when approving Mr R's application for finance.

Based on this report, while it's clear that Mr R had credit when he applied for finance with Moneybarn, he was maintaining all payments and there were no indications of any financial difficulties. But Mr R had some recent defaults, and there was some reliance on payday loans.

However, I wouldn't have expected Moneybarn to decline this application just because Mr R had some recent defaults and payday loans. But I would expect Moneybarn to take these into consideration when making their lending decision.

Mr R has also provided copies of his bank statements for the period October 2017 to February 2018. While I wouldn't have expected Moneybarn to have asked Mr R for copies of these, I'm satisfied the statements for October to December 2017 would give a good indication of what Moneybarn would likely have taken into consideration had they asked Mr R to prove his committed expenditure during that specific period.

The bank statements show that Mr R's committed household expenditure – rent, council tax, utility bills etc. – was £886, with an additional £211 a month for phone, TV, and insurances.

The bank statements show Mr R was making regular payments to his credit commitments, including payday loans and to a debt management company (which I understand was payments towards his defaulted balances). They also show that Mr R took out a new payday loan in December 2017, so I'd expect Moneybarn to have taken the payment for this (£190) into consideration. However, had they discussed this with Mr R, they would also have found that a payday loan he was paying £184 a month to ended in December 2017 (and the bank statements he's provided for 2018 confirm this).

As such, Mr R's regular committed expenditure towards his credit commitments was £760 a month, taking his total expenditure to £1,857 a month. Allowing for Mr R's income including overtime, for the reasons already stated, this gave him £690 a month disposable income. Which I'm satisfied was sufficient to sustainably support Moneybarn's payment of £205.

When reviewing the bank statements, I've also seen that three of Mr R's direct debits couldn't be paid when they were first requested. And it wasn't until they were represented that payment was made. But the bank statements also show that, at the times this happened, there was also a large amount of discretionary expenditure. So, I don't think the unpaid direct debits are an indication that Mr R had insufficient income to support his regular committed expenditure.

As such, and while I appreciate this will come as a disappointment to Mr R, I'm satisfied that, had Moneybarn carried out reasonable and proportionate checks, then there's no valid reason why they wouldn't have found the finance to be sustainably affordable. And it's for this reason why I won't be asking them to refund all or part of the payments Mr R paid, or of any interest and fees he may have been charged.

*Did Moneybarn act unfairly or unreasonably in some other way?*

I haven't seen anything to make me think Moneybarn acted unfairly or unreasonably in some other way.

**My final decision**

For the reasons explained above I don't uphold Mr R's complaint about Moneybarn No.1 Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or

reject my decision before 22 November 2023.

Andrew Burford  
**Ombudsman**