DRN-4413571

Financial Ombudsman Service

## The complaint

Mr C complains that Moneybarn No.1 Limited (Moneybarn) shouldn't have lent to him as the loan was unaffordable.

## What happened

In June 2019, Mr C acquired a car by entering into conditional loan agreement with Moneybarn. The cash price of the car was £6,495, Mr C made an initial payment of £400. The total amount repayable after added interest and charges was £14,524.60 repayable in monthly instalments over 60 months of £239.40.

In November 2022 Mr C complained to Moneybarn, saying they shouldn't have lent to him because the loan was unaffordable. He said his income was low and he'd been regularly using other lending such as payday loans to meet his commitments.

Moneybarn said they'd conducted a full credit search and also verified Mr C's monthly income using a current account analysis done by a Credit Reference Agency (CRA). Moneybarn added that they used data from the Office for National Statistics (ONS) to estimate Mr C's level of non-discretionary expenditure. They said they found:

- Mr C's existing borrowing levels were zero.
- Whilst they could see that Mr C had defaulted on previous borrowing, the most recent had been entered 29 months prior to his application, and they could see that he was making contributions towards repaying the sums owed.
- Although there was evidence of a County Court Judgment (CCJ) on Mr C's file, the amount was considered low and had been entered 39 months prior to his application.
- There was no Insolvency information on Mr C's file.

Moneybarn said they were satisfied they'd done enough checks and the agreement was affordable for Mr C.

Mr C wasn't happy with Moneybarn's response and referred his complaint to us.

Our investigator said while Moneybarn hadn't been able to provide the credit file they'd seen, Mr C had provided his credit report. And she'd hadn't seen any evidence that differed from what Moneybarn said they'd seen, other than the CCJ which Mr C didn't dispute. She said taking into account the information on the credit file together with the size of the loan, the APR, its term and the monthly repayment she was satisfied that Moneybarn had completed reasonable and proportionate checks. And they hadn't acted irresponsibly in lending to Mr C.

Mr C didn't agree and asked for an ombudsman to decide.

## 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.

Having done so, I'm not upholding his complaint. I'll explain why.

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.

All lenders are required to ensure they don't lend irresponsibly. I've considered the relevant rules, guidance and good industry practice when someone complains about irresponsible and/or unaffordable lending. In reaching my decision 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 themselves that Mr C 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 C could sustainably repay the borrowing?
2. Did Moneybarn act unfairly or unreasonably in some other way

So I've first considered whether Moneybarn carried out proportionate checks.

Moneybarn said they'd looked at Mr C's credit file which they said showed he didn't have any existing borrowing. While they could see he'd defaulted on some previous borrowing, this had been some time prior to his application. As had the CCJ which had been 39 months prior to the application. And Mr C was paying towards the reduction in the outstanding amounts.

Moneybarn also said they carried out an income and expenditure assessment. They verified Mr C's monthly net income at £2,000 using a CRA tool, and they estimated his non-discretionary expenditure at £1,005.25 using ONS data. They added on £270.40 to allow for any variations in estimates and calculated that Mr C had a monthly disposable income of £724.35. – which they said was enough for Mr C to be able to afford his monthly instalment of £239.40.

Moneybarn haven't provided a copy of the credit report they looked at – so I've looked at the one Mr C provided. This shows Mr C had a default in October 2017. The credit report suggests that the only active account Mr C had at the time of his application was for utilities – water. I can see there were three option accounts which were payable on a weekly basis, that had been settled in 2017 and 2018, before Mr C's loan agreement with Moneybarn. The credit report didn't show Mr C had a CCJ, which implies this has fallen off the report as it was now over six years. I can see that Mr C had taken on further credit, four credit cards, three loans and two mail order accounts but these were after his loan was agreed with Moneybarn. So, the information I've seen on Mr C's credit report at the time of the lending with Moneybarn correlates with the information they said they saw at the time of his application.

CONC allows firms to use statistical data (CONC 5.2A.19) in their affordability assessments unless they've reason to suspect that a customer's non-discretionary expenditure is significantly higher than that described in the data. In this case, I can't say that the information seen by Moneybarn suggested this was the case for Mr C. While Mr C had previous financial difficulties these looked to be some time ago and that he was in a better financial position and so able to seek lending. And I can see that Moneybarn also allowed a contingency amount of £270.40 to allow for any deviation in their estimates. This left Mr C with an estimated disposable income after the new loan amount was deducted of £484.95.

I know my decision will disappoint Mr C but I think the checks carried out by Moneybarn were proportionate and reasonable. So, I wouldn't  have expected Moneybarn to seek any further information to determine whether they'd lend to Mr C or not. And based on the information they had I think their lending decision was fair as it showed Mr C had sufficient income for him to be able to maintain his loan repayments.

I understand since taking out the lending Mr C's financial situation has deteriorated. I'd expect Moneybarn to act with forbearance and consideration in accordance with CONC in helping Mr C with any financial difficulties he has.

## My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 19 December 2023.

Anne Scarr
**Ombudsman**