

Complaint

Ms O complains that Moneybarn No.1 Ltd (“Moneybarn”) unfairly entered into a conditional-sale agreement with her. She’s said the agreement was unaffordable for her.

Background

In August 2019, Moneybarn provided Ms O with finance for a used car. The cash price of the vehicle was £5,898.00. Ms O paid a deposit of £400 and entered into a 60-month conditional sale agreement with Moneybarn for the remaining £5,498.00. The loan had interest, fees and total charges of £5,287.79 and the total amount to be repaid of £10,785.79 (not including Ms O’s deposit of £400) was due to be repaid in 59 monthly instalments of £182.81.

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

Ms O disagreed with our investigator’s assessment and asked for her complaint to be 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 Ms O’s complaint.

Having carefully thought about everything I’ve been provided with, I’m not upholding Ms O’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 Ms O 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 Ms O. During this assessment, Ms O provided details of her monthly income which it verified against payslips and other proof of income to support what she'd declared.

Moneybarn says it also carried out credit searches on Ms O which showed that she had some adverse information recorded against her. And while Ms O did have some active existing credit commitments these weren't excessive.

Furthermore, in Moneybarn's view, when the amount Ms O already owed plus a reasonable amount for Ms O's living expenses was deducted from her monthly income the monthly payments were still affordable. On the other hand, Ms O says she was already struggling at the time and that these payments were unaffordable.

I've thought about what Ms O and Moneybarn have said.

The first thing for me to say is that I think that Moneybarn should have applied a bit more scrutiny to what it had. In my view, bearing in mind the amount being lent, the term and total cost of the agreement, I'm satisfied that Moneybarn needed to take further steps to ascertain Ms O's actual living costs, rather than assuming Ms O's living expenses in order for its checks to have been reasonable here.

As Moneybarn should have done more, I've gone on to decide what I think Moneybarn is more likely than not to have seen had it done that here. Given the circumstances here, I would have expected Moneybarn to have had a reasonable understanding about Ms O's regular living expenses as well as her income and existing credit commitments.

I've considered the information Ms O has provided us with. Given Ms O's comments in response to the investigator's assessment, I wish to make it clear that I'm not going to carry out a forensic analysis of Ms O's bank statements to establish whether the monthly payments were affordable for her. I'm simply going to try and get some idea of what Moneybarn is likely to have found out about Ms O's living expenses had it done proportionate checks. I also have to bear in mind that obtaining bank statements wasn't the only way for Moneybarn to find out this information.

Having considered everything, the information provided appears to show that when Ms O's committed regular living expenses are combined with her credit commitments and then deducted from the funds she was receiving at the time, she did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

Ms O says that not all of her non-discretionary expenditure has been included in the assessment of her outgoings. But she hasn't pointed us to anything that she believes should have been included but wasn't. Nonetheless, it's clear that Ms O is now performing a retrospective line by line analysis of her bank statements. And as I've explained, I would not have expected Moneybarn to have carried out such an assessment of Ms O's circumstances at the time.

Having considered everything, I'm satisfied that the available information, at least, makes it appear as though Ms O had sufficient funds in order for the monthly payments to this agreement to be made in a sustainable manner.

I accept that it's possible Ms O's actual circumstances may well have worsened in the period since she entered into the agreement. For example, I know that Ms O is now not working because of ill-health. But I can't say that this is something that Moneybarn could be expected to have foreseen. This is particularly as Ms O was able to evidence working at the time she made her application.

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

I'm therefore satisfied that Moneybarn didn't act unfairly towards Ms O when it lent to her and I'm not upholding Ms O's complaint. I appreciate that this will be very disappointing for Ms O. 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 Ms O's complaint, I would like to remind Moneybarn of its obligation to exercise forbearance and due consideration, now that it has been told more about Ms O's financial position and the fact that she's not working, in the event that Ms O has difficulty making her payments going forwards.

My final decision

My final decision is that I'm not upholding Ms O's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms O to accept or reject my decision before 4 March 2024.

Jeshen Narayanan
Ombudsman