

## **Complaint**

Mr S complains that Moneybarn No. 1 Limited ("Moneybarn") unfairly entered into a conditional sale agreement with him. He's said that he doesn't believe that sufficient checks were carried out for it to be understood that the agreement was affordable for him.

## **Background**

In November 2019, Moneybarn provided Mr S with finance for a used car. The purchase price of the vehicle was £5,000.00. Mr S didn't pay a deposit and entered into a conditional sale agreement, which had a 60-month term, with Moneybarn for the entire purchase price.

The loan had interest and charges of £4,946.22 over the course of the 60-month term. This meant that the total amount to be repaid of £9,946.22 was due to be repaid in 59 monthly instalments of £168.58.

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

Having carefully thought about everything I've been provided with, I'm not upholding Mr S' complaint. I'd like to explain why in a little more detail.

In the first instance, given Mr S' submissions, I think that it is important for me to make it clear that I have not carried out a form of compliance check or enforce sought to the regulator's rules. What I have done is looked at everything provided and decided whether Mr S lost out should I determine that Moneybarn failed to act fairly and reasonably in its dealing with him.

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 S 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 S provided details of his monthly income, which it cross checked against information provided by credit reference agencies on the funds going into his account each month. It also carried out credit searches on Mr S which had shown he had previously defaulted on credit and was in an Individual Voluntary Arrangement (“IVA”).

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

On the other hand, Mr S 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 S 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 S' living costs given what Moneybarn saw on its credit checks. And I think that this ought to have led Moneybarn to do more to verify Mr S' actual regular living costs. That said, I don't think that obtaining further information on Mr S' actual living costs would have made a difference to Moneybarn's decision to lend in this instance.

I say this because Moneybarn was not only aware of Mr S' IVA but it also contacted Mr S' IVA practitioner. The IVA practitioner was responsible for supervising Mr S' agreement and had an obligation to Mr S' existing creditors. So I think that it confirming that it was content for Mr S to proceed with an agreement that had monthly payments of this amount is indicative of the fact that when Mr S' 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 S' actual circumstances at the time might have been worse than what I've seen here. But a lender is only able to make a decision based on what it has, or at the very least is likely to have. So while I do appreciate that it might have proved more difficult for Mr S to make his payments than he'd anticipated, the crucial thing here is that I don't think that asking for more information would have prevented Moneybarn from lending in this instance.

Overall and having carefully considered everything, while I'm not persuaded that Moneybarn's checks before entering into this conditional sale agreement with Mr S 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 S. So I'm not upholding this complaint. I appreciate that this will be disappointing for Mr S. But I hope he'll understand the reasons for my decision and at least consider that his concerns have been listened to.

### **My final decision**

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

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

Jeshen Narayanan  
**Ombudsman**