

## **Complaint**

Miss M complains that Moneybarn No.1 Ltd (“Moneybarn”) unfairly entered into a conditional-sale agreement with her. She’s said the agreement was unaffordable because she was already in arrears with other lenders and she was already struggling to pay essentials.

## **Background**

In July 2018, Moneybarn provided Miss M with finance for a used car. The cash price of the vehicle was £6,987.00. Miss M didn’t pay a deposit and entered into a 60-month conditional sale agreement with Moneybarn for the entire purchase price of £6,987.00. The loan had interest, fees and total charges of £6,324.58 and the total amount to be repaid of £13,311.58 was due to be repaid in 59 monthly instalments of £225.62.

Miss M’s complaint was considered by one of our investigators. She didn’t think that Moneybarn had done anything wrong or treated Miss M unfairly. So she didn’t recommend that Miss M’s complaint should be upheld. Miss M 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 M’s complaint.

Having carefully thought about everything I’ve been provided with, I’m not upholding Miss M’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 M 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 M. During this assessment, Miss M provided details of her monthly income which it validated by asking for copies of bank statements from Miss M.

Moneybarn says it also carried out credit searches on Miss M which showed some adverse information in the form of a County Court Judgment ("CCJ") recorded against her around one and a half years prior to this application. Miss M didn't have any other defaults recorded against her.

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

I've thought about what Miss M 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 it will have seen an albeit historic county court judgement ("CCJ") registered against Miss M as a result of its credit search, I'm satisfied that Moneybarn needed to take further steps to ascertain Miss M's actual living costs from the bank statements it obtained, rather than assuming Miss M'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 Miss M's regular living expenses as well as her income and existing credit commitments.

I've considered the information Miss M has provided us with. Having done so, this information appears to show that when Miss M's committed regular living expenses are combined with what the credit checks showed (I note some of the existing lending Miss M cites was taken out in the lead up to this application and is unlikely to have shown up on the credit search as a result) and are deducted from the income going into her account at the time, she did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

I accept that the information provided might not fully depict Miss M's financial position. I note Miss M says that she only started working for her employer a month previously and her income fluctuated. That may be the case, but from what I can see Moneybarn averaged the income for the period of time it considered and I don't think that this is unreasonable as its in line with what lenders typically do in relation to variable incomes.

Furthermore, the income argument is being made with the benefit of hindsight. Miss M didn't volunteer what she is now saying about her employment situation and I also have to weigh this against the fact that she decided to purchase a car at this particular time.

It might also help to explain that what I'm required to think about here in order to determine whether Moneybarn acted fairly and reasonably towards Miss M, is whether Moneybarn would have lent had it done what I think it should have. And having considered everything, I'm satisfied that Moneybarn is unlikely to have found out about what Miss M is now telling us even if it had carried out further checks.

In my view, any further checks carried out are likely to have led to Moneybarn concluding that Miss M had sufficient funds for the monthly payments to this agreement to be made in a sustainable manner. Particularly as while I've seen the payment from the creditor Miss M

has referred to, Moneybarn is any event likely to conclude that there was significant discretionary spend on Miss M's statements too.

I think that if questioned on this Miss M is likely to have said she would reduce her discretionary spending, given she wanted the finance for the vehicle at the time. And given Miss M's statements don't show that she was reliant on high-cost lending to make ends meet, I don't think that accepting such an assurance would have been unreasonable given the circumstances here.

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 M 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.

Overall I'm therefore satisfied that Moneybarn didn't act unfairly towards Miss M when it lent to her and I'm not upholding Miss M's complaint. I appreciate that this will be very disappointing for Miss M. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 3 January 2024.

Jeshen Narayanan  
**Ombudsman**