

The complaint

Ms R, via a third party, complains that Moneybarn No. 1 Limited (“Moneybarn”) unfairly entered into a conditional sale agreement with her. She says that due to her personal and financial circumstances at the relevant time the agreement was unaffordable.

What happened

In February 2020 Ms R entered into a conditional sale agreement with Moneybarn for a used car costing £7,430. Under the terms of the agreement, everything else being equal, Ms R undertook to make an advance payment of £400 followed by 59 monthly repayments of £278.72 making a total repayable of £16,844.48 at an APR of 49.7%.

Ms R complained that the agreement was unaffordable and so should never have been provided to her. Moneybarn didn’t uphold the complaint. It said that the finance provided was assessed fairly and the amount offered was affordable.

Ms R’s complaint was considered by one of our investigators. They came to the view that Moneybarn had done nothing wrong and it hadn’t treated Ms R unfairly. In other words, they didn’t uphold Ms R’s complaint.

Ms R disagreed with our investigator and so her complaint has been passed to me for review and 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.

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 R’s complaint.

Having carefully thought about everything I’ve been provided with, I’m not upholding Ms R’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 R 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 Ms R provided details of her monthly income, which it verified with a credit reference agency. It also says that it carried out a credit search on Ms R which showed that she had previously defaulted on some previous borrowing and had two county court judgments ("CCJ") recorded against her. The most recent default was five months old and the most recent CCJ was 10 months old.

In Moneybarn's view, when the amount Ms R already owed plus a reasonable amount for her living expenses (based on average data) were deducted from her monthly income the monthly payments for this agreement were still affordable.

On the other hand, Ms R says the agreement was unaffordable from the outset and this could and should have been apparent to Moneybarn.

I've thought about what Ms R 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 Ms R's living costs given what the credit search carried out showed, the monthly payments, the term of the agreement and the total cost of the loan.

In these circumstances, I think that Moneybarn ought to have done more to ascertain Ms R's actual regular living costs. That said, I don't think that Moneybarn obtaining further information on Ms R's actual living costs, rather than using average data, would have made a difference to its decision to lend in this instance.

I say this because when Ms R's actual living expenses are added to her active credit commitments and deducted from the income she received she appears to have had enough left over to make the repayments to this agreement. So I think that Moneybarn obtaining further information is likely to have led it to conclude that when Ms R's regular living expenses and existing credit commitments were deducted from her monthly income, she did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

I note that in response to the investigator's view Ms R say she believed she was charged more for the car than it was worth and the APR, at nearly 50%, was very high. But I'm satisfied that Ms R was made aware, and understood, how much the dealership wanted for the car and the APR at which Moneybarn was prepared to lend to her. Therefore, I'm not persuaded these two points are grounds for upholding Ms R's complaint.

Finally, and for the sake of completeness, I would also point out that I'm not persuaded that the level of gambling transactions undertaken by Ms R in the three months before she entered into the agreement with Moneybarn would have, or should have, caused Moneybarn any concern.

So in summary I don't think that Moneybarn acted unfairly or unreasonably towards Ms R and I'm not upholding her complaint. I appreciate that this will be disappointing for Ms R, but I hope she'll understand the reasons for my decision and at least accept that her concerns have been listened to.

My final decision

My final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms R to accept or reject my decision before 1 May 2024.

Peter Cook
Ombudsman