

Complaint

Mr T complains that Moneybarn No. 1 Limited ("Moneybarn") unfairly entered into a conditional sale agreement with him. He's said that the payments to the agreement were unaffordable and so he should never have been lent to.

Background

In January 2019, Moneybarn provided Mr T with finance for a used car. The purchase price of the vehicle was £4,995.00. Mr T didn't pay a deposit and entered into a conditional sale agreement with Moneybarn for the whole £4,995.00 needed to complete the purchase. The loan had interest and charges of £4,941.19 and a 60-month term. This meant that the total amount to be repaid of £9,936.19 was due to be repaid in 59 monthly instalments of £168.41.

Mr T complained that the agreement was unaffordable and so should never have been provided to him. Moneybarn didn't uphold the complaint. It said that its checks confirmed that the finance was affordable and so it was reasonable to lend.

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

Having carefully thought about everything I've been provided with, I'm not upholding Mr T'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 any lending was sustainable for Mr T 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 T provided details of his monthly income, which it which it cross-checked against information from a credit reference agency on the amount of money going into Mr T's main account. The credit check information also showed that Mr T didn't have any significant adverse information - such as defaults on credit accounts or county court judgments ("CCJ") recorded against him. It also says that the credit check demonstrated that Mr T had a low level of active debt at the time.

In Moneybarn's view, when the amount Mr T already owed plus a reasonable amount for Mr T's living expenses were deducted from his monthly income the monthly payments for this agreement were still affordable.

On the other hand, Mr T 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 T 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 T's living costs given the term of the agreement and Mr T's wage at the time. And I think that this ought to have led Moneybarn to do more to ascertain Mr T's actual regular living costs. That said, I don't think that obtaining further information on Mr T's actual living costs would have made a difference to Moneybarn's decision to lend in this instance.

I say this because despite having been given sufficient opportunity to do so Mr T hasn't been able to demonstrate that when his actual living expenses were added to his active credit commitments and deducted from his income he didn't have enough left over to make the payments to this agreement. I say this while particularly mindful that what some of Mr T says now significantly differs from what he told Moneybarn at the time he was entering into this agreement.

So I've not been provided with sufficient evidence to reasonably conclude that Moneybarn obtaining further information is likely to have led it to conclude that when Mr T's regular living expenses and existing credit commitments were deducted from his monthly income, he did not have the funds to sustainably make the repayments due under this agreement.

I know that Mr T did have a CCJ recorded against him, which, for whatever reason, did not show up in Moneybarn's searches. But given its low amount and Mr T's low level of active credit, I don't think that that, in itself, demonstrates that Mr T had insufficient funds to be able to make his payments in the way that he says.

I'd also point out that although this in itself is not determinative, Mr T did make his payments and Moneybarn's notes appear to indicate that he settled the finance early in order to upgrade his vehicle. I am therefore assuming he went on to take another agreement with higher, or at least, similar monthly payments going forward.

I accept it's possible that Mr T'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 is possible that it may have proved more difficult for Mr T to make his payments than he'd anticipated, the crucial thing here is that I have not been provided with sufficient evidence that clearly demonstrates to me that Moneybarn asking for more information would have prevented it from lending to Mr T 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 T did go far enough, I'm not persuaded that carrying out reasonable and proportionate checks would 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 T. So I'm not upholding this complaint. I appreciate that this will be disappointing for Mr T. 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 T's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 2 February 2024.

Jeshen Narayanan
Ombudsman