

The complaint

Miss P is complaining about Moneybarn No.1 Limited (Moneybarn). She says they were irresponsible in lending to her as the loan was unaffordable. Miss P's complaint was brought to our service by a representative but for ease I've written as if we've dealt directly with her.

What happened

In February 2022, Miss P took out a conditional sale agreement with Moneybarn to finance the purchase of a car. She paid a deposit of £100 and borrowed £8,952 - the cash price of the vehicle was £9,052. The agreement required her to make 59 monthly repayments of £297.66 – the total amount payable under the agreement was £17,661.94. Her payments were sporadic, with several bounced direct debits. The car was involved in an accident in November 2022 and the agreement was terminated in January 2023 although Miss P continued to pay off her arrears after this date.

In December 2022, Miss P complained about Moneybarn, saying they shouldn't have lent to her because the loan was unaffordable.

In their response, Moneybarn said they had carried out checks before deciding to lend to Miss P. They said they'd checked her credit report and used her payslips and benefits evidence to verify Miss P's stated monthly income of £1,938. They added that they'd used Office for National Statistics (ONS) data to estimate Miss P's non-discretionary expenditure and therefore her net disposable income. Using those figures they'd determined the agreement was affordable for Miss P.

One of our investigators then looked into the complaint but didn't uphold it, saying that although he thought Moneybarn hadn't completed proportionate checks, they'd have likely decided the agreement was affordable for Miss P if they had.

Miss P disagreed. She wasn't happy with our investigator including her benefits payments in her income and expenditure assessment as she said this money was used entirely for childcare. She asked for a decision and the complaint came to me. I issued a provisional decision on 27 November 2023. In that I said:

“The Financial Conduct Authority (FCA) sets out in a part of its handbook known as CONC what lenders must do when deciding whether or not to lend to a consumer. In summary, a firm must consider a customer's ability to make repayments under the agreement without having to borrow further to meet repayments or default on other obligations, and without the repayments having a significant adverse impact on the customer's financial situation.

CONC says a firm must carry out checks which are proportionate to the individual circumstances of each case.

Did Moneybarn carry out proportionate checks?

Moneybarn said they conducted a full credit search and checked Miss P's income using payslips and evidence of benefits. They also said they'd used ONS data to estimate Miss P's expenditure.

Whether or not these checks were proportionate depends on various factors, including the term of the loan, cost of credit, and overall amount repayable – as well as what Moneybarn found during their checks. Given the loan was for five years, at a high interest rate, and Miss P would need to pay back almost £18,000 over that time, the checks needed to be thorough.

I've seen the payslips and evidence of benefits Moneybarn looked at and I'm satisfied with the monthly income figure they calculated from those.

Moneybarn haven't sent us a copy of the credit report they used. They've told us it showed Miss P had five defaulted accounts but the most recent of these was 44 months before her application. Moneybarn's summary also said Miss P had active debts totalling around £2,212, as well as balances on the defaults totalling around £300. To get a clearer picture of Miss P's credit history at the time I've looked at the credit report she sent us, but I've not seen anything to add to what Moneybarn have told us.

It's clear from the evidence Moneybarn gathered that Miss P was heavily reliant on benefits. And they'd calculated that she was already paying £418 each month to creditors. Adding on the repayments under this agreement would mean she'd be spending around 35% of her income on credit repayments. Moneybarn relied on Office for National Statistics data to estimate Miss P's expenditure and therefore disposable income. But taking everything together, I'm not satisfied this was proportionate – I think they should have done more to understand Miss P's actual expenditure.

If Moneybarn had done proportionate checks, what would they have found?

Proportionate checks would have involved Moneybarn finding out more about Miss P's expenditure to determine whether she'd be able to make the repayments in a sustainable way.

I've looked at statements for Miss P's bank accounts for the three months leading up to her application to Moneybarn. And I've taken into consideration what Miss P's told us about her income and expenditure. I'm not saying Moneybarn needed to look at Miss P's statements but in the absence of any other evidence, bank statements provide a good indication of Miss P's income and expenditure at the time the lending decision was made.

I'm aware Miss P's said we shouldn't include her benefits income when considering what her income was at the time – because she received this to pay for her childcare. But I disagree. It was regular income and I've included Miss P's childcare costs in my estimate of her expenditure. Miss P's benefits income exceeded her costs of childcare and it's not unreasonable to suggest the excess was available for her other costs of living.

Moneybarn said they verified Miss P's income at £1,938 per month. Looking at the income in Miss P's bank statements, this figure seems reasonable for her pay and universal credit income. They didn't include child benefit in this – which averaged £152 per month. Adding this on meant Miss P had regular income of around £2,090 per month. I think it's fair to add this on because once Moneybarn had considered Miss P's expenditure it's likely they'd have questioned whether Miss P had any additional income sources to help cover her costs.

Turning to Miss P's expenditure, I can see her childcare costs averaged around £660 per month. Her monthly regular direct debits for various insurances. memberships and TV services totalled around £300. On average she was spending around £235 on utilities and council tax, and £130 on communications. She was also paying £190 per month on average to creditors and spending around £380 per month on food and fuel.

Taking all of this together I'm inclined to say Miss P's committed and non-discretionary expenditure totalled around £1,895. So her disposable income was around £195. This suggests if Moneybarn had carried out proportionate checks before lending to Miss P, they'd have seen she wouldn't be able to make monthly repayments of £297 without a negative impact on her existing financial situation. It follows that I don't think they should have lent to her."

Miss P accepted my provisional findings, but she said she'd part exchanged another car for £1,500 when taking out the finance agreement. She thought this should be taken into account rather than the £100 deposit I'd mentioned.

Moneybarn didn't comment on my findings but they did comment on my redress. I reflected on their comments and sent a revised redress proposal to both parties on 10 January 2024. Moneybarn provided some further comments, and I'll address these below.

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.

As neither party commented on my findings, my opinion is unchanged from that in my provisional decision and set out above. I'm upholding Miss P's complaint.

Putting things right

As Moneybarn shouldn't have approved Miss P's loan, it's not fair for them to charge any interest or other charges under the agreement. But Miss P had use of the vehicle and I think it's fair she pays for that use.

I initially said that Moneybarn should refund to Miss P everything she and her insurer had paid above the cash price of the car. But Moneybarn said that the total they'd received against the agreement was less than the cash price of the vehicle. After some conversations with Moneybarn about the meaning of the transactions on their statement I reconsidered my proposed redress, thinking about the usage Miss P had actually had of the vehicle – which was for just 10 months.

Moneybarn said they hadn't received any further funds for the vehicle after the insurance proceeds – instead the statement showed the interest rebate arising from early termination. This doesn't change my proposed redress though – if Moneybarn hadn't lent to Miss P, she wouldn't have had the vehicle. So I need to think about what she'd have had to pay for transport instead.

There isn't an exact formula for working out what amount would reflect a customer's fair usage of a car. But in deciding what's fair and reasonable in Miss P's case I've thought about the amount of interest charged on the agreement and Miss P's overall usage of the car and what her costs to stay mobile might have been if she hadn't entered into the agreement. In doing so, I think a fair amount Miss P should pay is £150 per month, or a total of £1,500.

In relation to Miss P's comments, I've unfortunately seen no evidence to show she part-exchanged a previous vehicle when taking out this agreement. Instead, the conditional sale agreement states that Miss P needed to pay a £100 deposit. So I can only direct Moneybarn to return this amount.

To settle Miss P's complaint, in line with what I stated in my 10 January 2024 email, Moneybarn need to:

- Refund the deposit of £100, adding 8% simple interest per year from the date of

payment to the date of settlement.

- Refund all the payments Miss P has made (excluding the insurance proceeds) in excess of £1,500, adding 8% simple interest per year from the date of each overpayment to the date of settlement.
- Terminate the agreement with nothing further to pay and remove any adverse information recorded on Miss P's credit file regarding the agreement.

If Moneybarn consider tax should be deducted from the interest element of my award they should provide Miss P a certificate showing how much they've taken off so that Miss P can reclaim that amount, assuming she is eligible to do so.

My final decision

As I've explained, I'm upholding Miss P's complaint. Moneybarn No.1 Limited need to take the steps outlined above to settle the matter.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 14 February 2024.

Clare King
Ombudsman