

The complaint

Mr J complains that Moneybarn No. 1 Limited trading as Moneybarn irresponsibly agreed to a Conditional Sale agreement for a loan he said he couldn't afford.

Mr J is represented by a third party. For ease of reading I will only refer to Mr J in my decision.

What happened

In May 2021 Mr J acquired a car when he entered into a Conditional Sale agreement with Moneybarn. The cash price of the car was £8,100, Mr J part exchanged another car for £4,000. This meant he looked to borrow £4,100 and after interest and charges of £3,035.07 were applied this totalled £7,135.07 repayable in instalments of £151.81 over 48 months. Mr J said he struggled to meet the repayments required and that Moneybarn hadn't done enough in checking whether the lending was affordable for him. He complained to Moneybarn.

Moneybarn said their checks were proportionate. They said they'd checked Mr J's current borrowing and repayment history. They said Mr J was in full time employment and they'd verified his income through a credit reference agency (CRA) as being £1,800 a month. They assessed through the CRA that his credit commitments were around £65 and statistical data showed he'd have non-discretionary expenditure of £964.93. A search of Mr J's credit history showed he'd previous defaults, but these had been around 15 months prior to them agreeing to lend to him, and the outstanding balances had been reduced. There weren't any county court judgements (CCJ) recorded. Moneybarn said their lending decision was fair based on the information they gathered. They added that the arrears on Mr J's account were due to changes in his financial situation over the course of the lending, and that they'd arranged several payments plans and explained the exit options to Mr J.

Mr J wasn't happy with Moneybarn's response and referred his complaint to us.

Our investigator said Moneybarn could only provide a summary of the credit history search they saw at the time of the lending. But had provided a credit search they did a few months later. As the initial check wasn't available and given Mr J had previously struggled financially our investigator said Moneybarn should have looked further into his finances. Our investigator considered Mr J's bank statements. He said based on Mr J's income and expenditure the lending was affordable for him.

Mr J didn't agree he said the amount of disposable income he had wasn't sufficient to cover any unexpected costs. He asked for an ombudsman to decide.

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.

I appreciate Mr J will be disappointed by my decision but having done so I'm not upholding

his complaint. I'll explain why.

Moneybarn needed to ensure that they didn't lend irresponsibly as per the rules set out in the Financial Conduct Authority's (FCA) Consumer Credit Sourcebook (CONC). This means Moneybarn needed to carry out proportionate checks to be able to understand whether any lending was affordable for Mr J before providing it.

In this case, there are two overarching questions that I need to answer to fairly and reasonably decide Mr J's complaint. These two questions are:

1. Did Moneybarn complete reasonable and proportionate checks to satisfy themselves that Mr J would be able to repay his loan without experiencing significant adverse consequences?

- If so, did they make a fair lending decision?
- If not, would those checks have shown that Mr J would have been able to do so?

2. Did Moneybarn act unfairly or unreasonably in some other way?

Repaying debt in a sustainable manner means Mr J being able to meet repayments without undue difficulty - using regular income, avoiding further borrowing to meet payments and making timely repayments over the life of the agreement.

CONC doesn't give a set list of checks that should be done. But that the level of detail that should be sought was dependent on the type of credit, the amount of credit being granted and the associated risk to the borrower relative to the borrower's financial situation.

So I've considered the checks done by Moneybarn.

Moneybarn said they checked Mr J's credit history and have provided a summary of what they saw. They said from this they found Mr J's monthly credit commitments were affordable. While he'd defaulted on an account previously this had been 15 months prior to the lending and the remaining balance was reducing. They didn't see any CCJ's. They determined his credit commitments to be around £65, and that he'd £413 revolving credit and £262 non-revolving credit.

Moneybarn also said Mr J was employed full time and he earned £1,800 per month which they said they'd verified using data obtained from a CRA. And they'd assessed his expenditure using information from the Office for National Statistics (ONS), this being for housing costs, council tax, utilities, vehicle costs and basic living costs. They said this would be £964.93. Mr J also had credit commitments they said of around £65. And they factored in a buffer of around £45. Moneybarn assessed Mr J's outgoings to be £1,075. Meaning he'd available income of £725, and a net disposable income after the new loan was factored in of £573.19.

Moneybarn has provided a credit search done in September 2021 and I've considered this to see if it reflects the summary Moneybarn gave about what they saw at the time of the lending. From this I can see Mr J had five defaulted accounts, with the latest being in March 2020. And one of which was for a payday loan. I can see that Mr J was reducing the outstanding balances. But I can also see that for one of Mr J's active accounts, a loan he was two months behind in his repayments and had been for several months prior to the lending.

I'd expect a lender to require more assurance the greater the potential risk to the

borrower of not being able to repay the credit in a sustainable way. And given Mr J's previous financial struggles and that the credit history check showed signs of current financial difficulty. With the amount being borrowed and the time over which its to be repaid, I don't think the checks Moneybarn did were proportionate as I don't think it was reasonable for Moneybarn to rely on credit reference data to verify income, or to estimate Mr J's expenditure using ONS data. I think they should have done more to establish Mr J's financial situation as to whether the lending was affordable for him.

But saying Moneybarn should have done more before lending to Mr J doesn't automatically mean his complaint should succeed. I also need to be persuaded that what I consider to be proportionate checks would have shown Moneybarn that Mr J couldn't sustainably afford the credit. As previously mentioned, there isn't a set list of checks that a lender should make, but bank statements will I think usually provide a good understanding of someone's financial situation as they should show their income and essential outgoings.

Mr J has provided two months bank statements prior to the lending. We'd usually look to obtain three months bank statements, but Mr J hasn't provided the details requested for the third month bank statements. So, I've considered his statements for the two months that we have.

Mr J earned on average across the two months around £2,398, which is more than the amount Moneybarn used in their assessment. I've also considered Mr J's committed monthly outgoings which included things like food, rent, utilities, fuel, mobile phone and payments towards credit commitments. Having done so, I can see essential expenditure, including payments to his partner for childcare and schooling and credit commitments averaged around £1,967 over the two months.

The statements also show there were regular transfers in and some transfers out of the account for another of Mr J's bank accounts. I can see ad hoc spending, including a buy now pay later payment, as well as other discretionary spending. There appears to be some digital trading transactions, which while some payments went out of the account, I can also see a large amount being paid in. Overall, I think this shows Mr J was managing his finances and had sufficient disposable income to cover his expenditure. So, I'm satisfied Moneybarn, if they had checked further into Mr J's financial circumstances would have still agreed to the lending. So, I don't think Moneybarn has acted irresponsibly in lending to Mr J as he'd sufficient income to afford the repayments.

I understand that the agreement is still active and there remains an outstanding balance. I'd expect Moneybarn to act with forbearance and consideration in accordance with CONC to help Mr J with his current financial situation.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 17 February 2024.

Anne Scarr
Ombudsman