

Complaint

Mr S and Mrs S complain that Moneybarn No.1 Ltd ("Moneybarn") unfairly entered into a conditional-sale agreement with them. They've said the agreement was unaffordable and so they shouldn't have been accepted for it.

Background

In May 2019, Moneybarn provided Mr S and Mrs S with finance for a used car. The cash price of the vehicle was £13,400.00. Mr S and Mrs S didn't pay a deposit and entered into a 60-month conditional sale agreement with Moneybarn for the entire purchase price. The loan had interest, fees and total charges of £11,413.63 and the total amount to be repaid of £24,813.63 was due to be repaid in 59 monthly instalments of £420.57.

Mr S and Mrs S' complaint was considered by one of our investigators. He didn't think that Moneybarn had done anything wrong or treated Mr S and Mrs S unfairly. So he didn't recommend that Mr S and Mrs S' complaint should be upheld.

Mr S and Mrs S 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 S and Mrs S' complaint.

Having carefully thought about everything I've been provided with, I'm not upholding Mr S and Mrs 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 Mr S and Mrs S could make their payments in a sustainable manner before agreeing to lend to their. 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. During this assessment, Mr R and Mrs R provided details of their monthly income which it verified with Mr R's business bank account statements. Moneybarn says it also carried out credit searches on both Mr S and Mrs S which showed some adverse information.

But when amounts to account for what Mr S and Mrs S already owed plus a reasonable allowance for living expenses was added, the monthly payments were still affordable for them. On the other hand, Mr S and Mrs S say that these payments were unaffordable.

I've thought about what Mr S and Mrs S and Moneybarn have said.

The first thing for me to say is that much like our investigator I don't think that the checks Moneybarn carried out did go far enough. In my view, bearing in mind it will have seen a significant amount of adverse information registered against Mr S and Mrs S on its credit searches, I'm satisfied that Moneybarn needed to take steps to verify Mr S and Mrs S' actual living costs, rather than rely on average data, in order for its checks to have been proportionate.

But a lender failing to carry out sufficient checks doesn't on its own mean that a complaint should be upheld. I still need to be satisfied that a lender carrying out such checks would have shown the payments to be unaffordable. So as Moneybarn didn't carry out sufficient checks, I've gone on to decide what I think Moneybarn is more likely than not to have seen had it obtained further information from Mr S and Mrs S.

As I've explained, given the circumstances here, I would have expected Moneybarn to have had a reasonable understanding about Mr S and Mrs S' regular actual living expenses as well as Mrs R's income and their existing credit commitments (which Moneybarn already had). I've considered the information Mr S and Mrs S have provided us with – including the bank statements.

Having done so, this information does appear to show that when Mr S and Mrs S' committed regular living expenses, existing credit commitments and a reasonable amount for their defaulted accounts are deducted from what was calculated as their joint income, they did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

Mr S and Mrs S have since said that Mr S was encouraged to join the application because Mrs S couldn't afford the application on her own. But I don't think that this is surprising as if Mrs S was in a position where she could afford to make the payments, Moneybarn would simply have accepted a sole application from her and there would have been no need for Mr S to join the application.

Furthermore, while I'm sorry to learn about the difficult circumstances that Mr S has experienced and he's said that he wasn't receiving what the income suggested, Moneybarn won't have known any of this. And in circumstances where Mr S was providing evidence to support an income declaration, it's difficult for me to say that Moneybarn acted unreasonably in accepting this information. Mr S may have been told that Moneybarn wouldn't have been prepared to lend without seeing his business account statements, but this I don't think that this amounts to coercion.

Ultimately, it was Mr S and Mrs S that chose to purchase a car at this time, while in full knowledge of their circumstances. And this was even prior to them beginning the process of applying for finance from Moneybarn. It's fair to say that Mr S could simply have refused to

provide the additional information requested should he not wanted to have gone ahead with the transaction, or been a party to this agreement.

Once it received this information from Mr S and Mrs S as part of their application, Moneybarn needed to carry out proportionate checks in order to be able to make an informed decision on whether they could afford the finance. And as proportionate checks, including Mr S' business account statements, are more likely than not to have shown that the payments to this agreement were affordable for both Mr S and Mrs S combined, I don't think that it was unreasonable to proceed with the application, rather than advise Mr S and Mrs S against purchasing a car, in these circumstances.

So overall and having carefully considered everything, while I don't think that Moneybarn's checks before entering into this conditional sale agreement with Mr S and Mrs S did go far enough, I'm satisfied that carrying out reasonable and proportionate checks won't have prevented Moneybarn from providing these funds, or entering into this agreement with them.

As this is the case, I'm therefore satisfied that Moneybarn didn't act unfairly towards Mr S and Mrs S when it lent to them and I'm not upholding this complaint. I appreciate that this will be very disappointing for Mr S and Mrs S. But I hope they'll understand the reasons for my decision and that they'll at least feel their concerns have been listened to.

My final decision

My final decision is that I'm not upholding Mr S and Mrs S' complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mrs S to accept or reject my decision before 2 April 2024.

Jeshen Narayanan
Ombudsman