

Complaint

Mr H complains that Moneybarn No. 1 Limited ("Moneybarn") unfairly entered into a conditional sale agreement with him. He's said that the payments to this agreement were unaffordable due to his existing position.

Background

In May 2021, Moneybarn provided Mr H with finance for a used car. The purchase price of the vehicle was £7,487.00. Mr H paid a deposit of £500 and took out a conditional sale agreement with Moneybarn for the remaining £6,987.00. The loan had interest and charges of £6,719.88 and a 60-month term. This meant that the total amount to be repaid of £13,706.88 (not including Mr H's deposit) was due to be repaid in 59 monthly instalments of £232.32.

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

Having carefully thought about everything I've been provided with, I'm not upholding Mr H'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 H 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 H provided details of his monthly income, which it cross-checked against information that it received from credit reference agencies on the funds that went into his account each month. It also carried out credit searches on Mr H, which had shown he had previously defaulted on credit and had county court judgments taken against him from a couple of years previously. Furthermore, Mr H was in an Individual Voluntary Arrangement ("IVA").

In Moneybarn's view, when the amount Mr H already owed plus a reasonable amount for Mr H's living expenses were deducted from his monthly income the monthly payments for this agreement were still affordable.

On the other hand, Mr H 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 H 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 H's living costs given what Moneybarn saw on its credit checks. And I think that this ought to have led Moneybarn to do more to verify Mr H's actual regular living costs.

That said, I don't think that obtaining further information on Mr H's actual living costs would have made a difference to Moneybarn's decision to lend in this instance. I say this because Moneybarn was not only aware of Mr H's IVA but it also contacted Mr H's IVA practitioner. The IVA practitioner was responsible for supervising Mr H's agreement and had an obligation to Mr H's existing creditors.

So I think that it confirming that it was content for Mr H to proceed with an agreement that had monthly payments of up to £250 is indicative of the fact that when Mr H's regular living expenses and existing credit commitments were deducted from his monthly income, he did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

I accept it's possible that Mr H's actual circumstances at the time might have been worse than what I've seen here. I know that Mr H has said that he was in arrears on his IVA and his practitioner only provided permission to him taking this agreement on the basis that he also increased the monthly IVA payments by £90. But a lender is only able to make a decision based on what it has, or at the very least is likely to have. The letter providing Mr H's supervisor's permission did not mention any of this or anything else warranting further questioning.

Furthermore, I have to consider Mr H's arguments in the context that he didn't declare any of this information at the time either. Indeed both he and his IVA practitioner appear to have considered that it was an appropriate time for him to purchase a vehicle and that he would be able afford the resulting payments.

So while I do appreciate that it might have proved more difficult for Mr H to make his payments than he'd anticipated and he may be unhappy with his IVA practitioner's actions, I don't think that Moneybarn could reasonably be expected to have been aware of any arrears or increased payments Mr H might have to make.

Overall and having carefully considered everything, while I'm not persuaded that Moneybarn's checks before entering into this conditional sale agreement with Mr H did go far enough, I've not been provided with clear evidence 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 H. So I'm not upholding this complaint. I appreciate that this will be disappointing for Mr H. 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 H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 24 May 2024.

Jeshen Narayanan
Ombudsman