

## **Complaint**

Mr R 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, so he should not have been lent to.

## **Background**

In March 2019, Moneybarn provided Mr R with finance for a used car. The purchase price of the vehicle was £7,733.00. Mr R paid a deposit of £200 and entered into a conditional sale agreement, which had a 59-month term, with Moneybarn for the remaining £7,533.00.

The loan had interest and charges of £6,291.30. This meant that the total amount to be repaid of £13,824.30 (not including Mr R's deposit) was due to be repaid in 58 monthly instalments of £238.35.

Mr R 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.

The complaint was considered by two of our investigators. Neither of them thought that Moneybarn had done anything wrong or treated Mr R unfairly. So they didn't recommend that Mr R's complaint should be upheld.

Mr R disagreed with our investigators 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 R's complaint.

Having carefully thought about everything I've been provided with, I'm not upholding Mr R'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 R 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 R provided details of his monthly income, which it cross checked against information on the amount of funds going into Mr R's main account each month which it obtained from credit reference agencies. It also says that it carried out credit searches on Mr R, which had shown that he had moderate existing credit commitments no significant adverse information such as defaulted accounts or county court judgments ("CCJ") recorded against him.

In Moneybarn's view, when the amount Mr R already owed plus a reasonable amount for Mr R's living expenses (based on average data) were deducted from his monthly income the monthly payments for this agreement were still affordable.

On the other hand, Mr R 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 R 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 R's living costs given the cost for credit, the term of the loan as well as the monthly payment. In these circumstances, I think that Moneybarn ought to have done more to ascertain Mr R's actual regular living costs.

As Moneybarn should have done more, I've gone on to decide what I think Moneybarn is more likely than not to have seen had it done that here. Given the circumstances here, I would have expected Moneybarn to have had a reasonable understanding about Mr R's regular living expenses as well as his income and existing credit commitments.

I've considered the information Mr R has now provided us with. Given Mr R's comments in response to the investigator's assessment, I wish to make it clear that I'm not going to carry out a forensic analysis of Mr R's bank statements to establish whether the monthly payments were affordable for him.

I say this particularly as Mr R's most recent submissions are being made in support of a claim for compensation and any explanation that he would have provided at the time, if asked for one, are more likely to have been with a view to persuading Moneybarn to lend, rather than highlighting any unaffordability.

As this is the case, I'm simply going to try and get some idea of what Moneybarn is likely to have found out about Mr R's living expenses had it done proportionate checks. And I think that when Mr R's actual committed living expenses are added to his active credit commitments and deducted from his income, he, at the time at least, appears to have enough left over to repay this agreement.

I accept it's possible that Mr R's actual circumstances at the time might have been worse than what proportionate checks are likely to have shown Moneybarn. For example, I know that Mr R said more of expenditure including cash withdrawals should be treated as non-discretionary expenditure.

But it's not clear to me that all of what Mr R is now saying was non-discretionary expenditure should be treated that way. In any event, what's important here is that I have to keep in mind

that obtaining bank statements wasn't the only way for Moneybarn to find out about Mr R's living expenses. And in these circumstances, I wouldn't have expected Moneybarn to be aware of the level of non-discretionary expenditure Mr R says he had.

So I think that Moneybarn obtaining further information is likely to have led it to conclude that when Mr R'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.

Overall and having carefully considered everything, while I'm not persuaded that Moneybarn's checks before entering into this conditional sale agreement with Mr R did go far enough, I'm satisfied that carrying out reasonable and proportionate checks won't 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 R. So I'm not upholding this complaint. I appreciate that this will be disappointing for Mr R. 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 R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 25 March 2024.

Jeshen Narayanan  
**Ombudsman**