The complaint

Miss M, via a third party, complains that Moneybarn No. 1 Limited ("Moneybarn") unfairly entered into a conditional sale agreement with her. She says that due to her personal and financial circumstances at the relevant time the agreement was unaffordable.

What happened

In November 2019 Miss M entered into a conditional sale agreement with Moneybarn for a used car costing £5,194. Under the terms of the agreement, everything else being equal, Miss M undertook to make an advance payment of £250 followed by 59 monthly repayments of £168.53 making a total repayable of £10,193.27 at an APR of 37.7%.

Miss M complained that the agreement was unaffordable and so should never have been provided to her. Moneybarn didn't uphold the complaint. It said that the finance provided was assessed fairly and the amount offered was affordable.

Miss M's complaint was considered by one of our investigators. They came to the view that Moneybarn hadn't made an unfair lending decision. In other words, they didn't uphold Miss M's complaint.

Miss M disagreed with our investigator and so her complaint has been passed to me for review and decision.

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.

In this decision I've focussed on what I think are the key issues. Our rules allow me to do this and these rules reflect the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument (including those submitted by Miss M in response to the investigator's view) to be able to reach what I think is the right outcome. I will, however, refer to those crucial aspects which impact my decision.

I would also add I've not carried out a form of compliance check or sought to enforce the regulator's rules. What I've done is looked at everything provided and decided whether Miss M has lost out due to Moneybarn failing to act fairly and reasonably in its dealings with her.

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 Miss M's complaint.

Having carefully thought about everything I've been provided with, I'm not upholding Miss M'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 Miss M could make her payments in a sustainable manner before agreeing to lend to her. 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 Miss M confirmed she had a net monthly income of £1,300, which it verified with a credit reference agency and after it had estimated her non-discretionary expenditure to be in the region of £800. It also says that it carried out a credit search on Miss M which showed that she:

- had outstanding debt totalling a little over £600
- was in arrears on one debt, a debt that had an outstanding balance of approximately £250
- had four defaults totalling £1,100, the most recent being 15 months old
- was in a protected trust deed arrangement
- had no county court judgements

In Moneybarn's view, taking everything into account (including a letter from Miss M's trustee confirming they had no objection to her entering into the agreement), the monthly payments for this agreement were affordable.

On the other hand, Miss M says the agreement was unaffordable from the outset and this could and should have been apparent to Moneybarn.

I've thought about what Miss M and Moneybarn have said.

The first thing for me to say is that I'm not necessarily persuaded that the checks Moneybarn carried out did go far enough. Given what the credit search carried out showed, the monthly payments, the term of the agreement and the total cost of the loan I think Moneybarn should have carried out further checks into Miss M's actual financial circumstances.

In these circumstances, I think that Moneybarn ought to have done more to ascertain Miss M's actual non-discretionary expenditure, rather than estimating it. That said, I don't think that Moneybarn obtaining further information on Miss M's actual non-discretionary expenditure would have made a difference to its decision to lend in this instance.

I say this because having reviewed Miss M's bank statements for the months of August, September and October 2019, which I'm satisfied I can rely on to get a good understanding of Miss M's financial circumstances in November 2019, I'm satisfied that it's reasonable to conclude that:

- her net monthly income was approximately £1,550
- she was receiving other monthly credits of approximately £350

- she had monthly non-discretionary expenditure (excluding food but including running costs of an existing car and a loan repayment of £120) of approximately £1,100
- she had a monthly surplus income of approximately £800 for food, discretionary costs and this agreement
- her account balance moved from credit to debit to credit suggesting she wasn't continuously reliant on her overdraft for 'day to day living'
- she never exceeded her overdraft limit (set at £300) and in September 2019 she never went more than £110 overdrawn
- she was paying £120 a month for a loan that was due to finish, and finished, in November 2019 meaning the additional cost of this agreement was only £49 (£169 less £120)

Furthermore, whilst this isn't always indicative that a loan was affordable at the outset, I can see that Miss M never missed any of the monthly agreement payments required of her before she took the decision to voluntary terminate the agreement in October 2023. And this isn't normally consistent with a borrower being unable to afford the monthly repayments.

So I think that Moneybarn obtaining further information is likely to have led it to conclude that when Miss M's non-discretionary expenses and existing credit commitments were deducted from her monthly income, she did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

My final decision

My final decision is I don't uphold this complaint.

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

Peter Cook
Ombudsman