

The complaint

Ms M complains Moneybarn No 1 Limited didn't sufficiently check she could sustain repayments for a finance agreement she entered into with them.

What happened

In January 2020 Ms M acquired a car when she entered into a conditional sale agreement with Moneybarn. The cash price of the car was £5,485, she paid a deposit of £200, and after interest and charges were applied the total amount she needed to repay was £10,422.34. This was to be repaid over 60 months, with monthly repayments of £173.26. Ms M said she struggled to maintain the repayments. She said Moneybarn hadn't checked her income or her financial situation. She said they'd been irresponsible in lending to her as she was on a low income and had defaulted on other accounts as well as having two county court judgements (CCJ). Ms M complained to Moneybarn.

Moneybarn said they'd checked Ms M's credit and income through credit reference agencies (CRA). And used statistical data to assess her outgoings. While they did see Ms M had recently defaulted on an account she was paying this back. And her CCJ's were historic being 13 months prior to them lending to her. They said based on what they saw the lending was affordable for Ms M as she'd sufficient disposable income to sustain her repayments.

Ms M wasn't happy with Moneybarn's response and referred her complaint to us.

Our investigator acknowledged Moneybarn was a lender who offered finance to consumers with previously impaired credit. But said Moneybarn should have checked into Ms M's actual financial situation as her credit file showed a default six months prior to the lending. But after reviewing Ms M's bank statements he didn't agree that Moneybarn had acted unfairly or irresponsibly in lending to her.

Ms M didn't agree she disputed the figures used by our investigator, especially her income which she said was around £1,200 and not around £1,500 as stated by our investigator. And if the lower income figure had been used it would have shown the lending was unaffordable for her. She asked for her complaint to be referred to 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 my decision will disappoint Ms M but having done so I'm not upholding this complaint for the same reasons as those of our investigator. 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). In practice, what this means is that Moneybarn needed to carry out proportionate checks to be able to understand whether any lending was affordable for Ms M before providing it.

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

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

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

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

Repaying debt in a sustainable manner means Ms M 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'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. I'd expect a lender to seek more assurance the lower a person's income, the higher the amount of credit being applied for and the longer the term of the agreement.

So, I've considered the checks Moneybarn did before they agreed to lend to Ms M.

Moneybarn said they checked Ms M's declared income of £1,200 through a CRA as well as checking her credit file. They said this provided details about her current borrowing levels; her repayment history, including any arrears; and past defaulted accounts. They said that Ms M's borrowing levels and monthly credit commitments were reviewed and appeared affordable. There was a registered default for six months prior to the lending, which they said Ms M was repaying. And two historic CCJ's. They said with this information and the use of statistical data for her housing costs, council tax, utilities, vehicle costs and basic living costs Ms M's non-discretionary spending would be £563.17. Leaving Ms M with a disposable income of £636.83. And based on this they decided to lend to her.

But given Ms M was showing financial difficulty in the previous six months. She'd a relatively low income and would be indebted for five years. I don't think it was reasonable to rely on statistical data to determine whether the lending was affordable for Ms M. So, I think Moneybarn ought to have done further checks into Ms M's financial position to establish whether the lending they subsequently provided was affordable for her or not.

But saying Moneybarn should have done more before lending to Ms M doesn't automatically mean her complaint should succeed. I also need to be persuaded that what I consider to be proportionate checks would have shown Moneybarn that Ms M 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.

I've considered Ms M's bank statements for the three months leading up to her agreement with Moneybarn. Ms M has said her average income was around £1,200, which included her

income for January 2020 which she said was £956. But for our purposes the relevant three months are October, November and December 2019. Ms M said her income was £1,587, £1,214 and £1,261 respectively which equates to an average income of around £1,354. But from her statements I can see she was paid weekly, and for October 2019 her income was £1589.65 which included a benefit payment of £190.54, November 2019 - £1,515.61 and December 2019 - £1,528.22 which equates to an average of around £1,545 across the three months.

From her bank statements I can see Ms M's non-discretionary spending included rent, insurance, utilities, food, transport costs including petrol, communications and media. Factoring in the new lending amount of £173.26 this amounted to around £1,300 a month. Leaving Ms M with around £245 in disposable income for discretionary and unexpected spending.

So, if Moneybarn had carried out further checks to establish Ms M's financial situation, given the information provided by Ms M I think they would have still agreed to lend to her as these showed she'd sufficient disposable income to sustain the repayments. So, I can't say they acted unfairly in lending to her.

I understand that my decision will disappoint Ms M but I hope from my reasoning she can understand the outcome that I've reached.

I can see as part of Ms M's complaint that she's unhappy about the payment plans Moneybarn has put in place. CONC 7.3 provides guidance to lenders about how they treat customers in default or arrears. Moneybarn has an obligation to exercise forbearance and consideration. Examples of this are provided such as considering suspending, reducing, waiving or cancelling any further interest or charges; allowing deferment of payment of arrears: or by accepting token payments for a reasonable period of time. CONC 7.3.6 says:

"Where a customer is in default or in arrears difficulties, a firm should allow the customer reasonable time and opportunity to repay the debt."

I can see from Moneybarn's notes that they looked to help Ms M during her financial difficulties. They've notified Ms M of her arrears, taken payments through their online portal, completed several Income and expenditure assessments, put in place several payment plans, explained to Ms M her options for exiting the agreement, applied holds on collection activity, put in place a payment holiday, and given Ms M the details of not-for-profit debt advice services. So, I'm satisfied Moneybarn has acted fairly and reasonably in their actions with Ms M while she's in financial difficulty. The last payment plan I can see was agreed to start in September 2023 for £50 a month running until November 2025. But Ms M failed to maintain the arrangement.

Although I'm not upholding this complaint, I'd like to remind Moneybarn of their continued obligation to exercise forbearance and consideration if they intend to collect any outstanding balance remaining on the account and it's the case that Ms M is still experiencing financial difficulty.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 23 July 2024.

Anne Scarr
Ombudsman