

Complaint

Mr D complains that Moneybarn Limited (“Moneybarn”) unfairly entered into a conditional sale agreement with him. He’s said that the monthly payments to this agreement were unaffordable.

Mr D is being assisted with his complaint by a Claims Management Company (“CMC”).

Background

In July 2019, Moneybarn provided Mr D with finance for a used car. The purchase price of the vehicle was £5,395.00. Mr D didn’t pay a deposit and took out a 48-month conditional sale agreement with Moneybarn for the entire £5,395.00.

The loan had interest, fees and charges of £4,194.88 and a 48-month term. This meant that the total amount to be repaid of £9,589.88 was due to be repaid in 47 monthly instalments of £204.04.

Mr D 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 D’s complaint was considered by one of our investigators. She didn’t think that Moneybarn had done anything wrong or treated Mr D unfairly. So she didn’t recommend that Mr D’s complaint should be upheld. The CMC, on Mr D’s behalf, 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 D’s complaint.

Having carefully thought about everything I’ve been provided with, I’m not upholding Mr D’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 could be repaid by Mr D 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 D provided details of his monthly income which was verified with copies of payslips. It says it also carried out credit searches on Mr D which had shown Mr D had historic difficulties with credit in the form of defaults and a County Court Judgment although these were from 20 months prior to this application. Furthermore, Moneybarn says that it combined this information with reasonable estimates on Mr D's outgoings. And all of this information showed that these payments were affordable.

On the other hand, Mr D says 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 D and Moneybarn have said. The first thing for me to say is that this wasn't simply a case of Moneybarn relying on what Mr D said at face value before deciding to lend to him. It obtained a quite a bit of information from Mr D while considering the application.

As Mr D has pointed out he did have a history of difficulties with credit. And I think that Mr D's previous difficulties with credit meant that it was not fair and reasonable for Moneybarn to rely on estimates of Mr D's living expenses. In my view, given what it saw on the credit searches it carried out, I think that it would have been reasonable and proportionate for Moneybarn to have found out more about Mr D's actual regular living expenses before deciding whether to lend to him.

In order to consider what finding out more about Mr D's actual regular living expenses is likely to have shown, I've considered the information Mr D has provided about his circumstances at the time. To be clear, I've not carried out a forensic analysis of the bank statements provided in order to determine whether the loan payments were affordable for Mr D. I've simply considered what Moneybarn is likely to have done if it obtained the information it is arguable it should have obtained - Mr D's actual regular living costs - here.

I say this because this information provided does appear to show that when Mr D's committed 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.

It's clear that any difficulty Mr D would have making his payments wasn't to do with his committed expenditure, it was to do with his gambling. I accept it's possible – but by no means certain - that if Moneybarn had obtained Mr D's bank statements it may have chosen not to lend to him because of this.

However, as obtaining bank statements wasn't the only way for Moneybarn to find out about Mr D's actual regular living expenses, I'm not persuaded that any gambling is particularly relevant here – irrespective of the extent of it. I say this particularly as Mr D received a vehicle (which he couldn't gamble) rather than cash funds. Therefore, I'm not persuaded that Moneybarn carrying out further checks here, in the way that it should have done, would have resulted in it making a different lending decision in this instance.

Overall and having carefully considered everything, I'm satisfied that proportionate checks are unlikely to have shown that Moneybarn that it shouldn't have lent to Mr D. So I'm satisfied that it wasn't unreasonable for Moneybarn to provide these funds, or enter into this conditional sale agreement with Mr D.

This means that I don't think that Moneybarn acted unfairly or unreasonably towards Mr D and I'm not upholding this complaint. I appreciate that this will be disappointing for Mr D. 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 D's complaint.

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

Jeshen Narayanan
Ombudsman