

The complaint

Mr S complains that Moneybarn No. 1 Limited, trading as Moneybarn ('Moneybarn'), irresponsibly granted him a conditional sale agreement he couldn't afford to repay.

What happened

In September 2020, Mr S acquired a used car financed by a conditional sale agreement from Moneybarn. Under the terms of the agreement Mr S was required to make 29 monthly repayments of £274.87. The total repayable under the agreement was £7,971.23. The purchase price of the car was £5,745.

Mr S started getting into difficulty with meeting his payments on the agreement which led to him entering into a number of payment plans with Moneybarn. In June 2022 he also entered into a debt management plan for his agreement and other finances. The agreement was settled in full in June 2023.

Mr S says that Moneybarn didn't complete adequate affordability checks. He says if it had, it would have seen the agreement wasn't affordable. Moneybarn didn't agree. It said that it carried out a thorough assessment which included a search of Mr S's credit file and checking his income.

In my provisional decision dated 25 April 2024 I explained why I was intending to uphold this complaint. In summary, I thought that if Moneybarn had carried out better checks before granting the finance it would have seen it was likely to be unaffordable for Mr S due to the level of online gambling transactions. I set out an extract below:

"I do think there was a need for better checks, given that Mr S had had defaulted accounts in the past and there was evidence that he'd relied on short term high cost borrowing. So I think Moneybarn ought to have taken further steps to understand Mr S's specific financial circumstances in order to establish that he was likely to be able to affordably and sustainably repay the finance. I say this especially given that Mr S was taking on such a significant financial commitment that would run over a significant period of time.

Mr S recently sent in bank statements. These show his monthly income coming in to his account at level that's broadly in line with what he told Moneybarn. However, the content of the statements is dominated by very high levels of online gambling. In the three months leading up to the lending decision Mr S was spending well in excess of £3,000 each month on online gambling sites – well in excess of his monthly income. I have also noticed returned direct debits and payments which couldn't be taken due to insufficient funds. I think that had Moneybarn taken the necessary steps to carry out better checks by looking more closely into Mr S's financial circumstances, it's likely it would have been aware of these issues. Moneybarn has previously acknowledged that excessive spending on gambling sites would be an issue of concern when opening new accounts.

Taking into account that Mr S would be expected to maintain his loan repayments for a significant period of time, I think it was foreseeable that he would soon get into difficulty and would therefore be unable to afford to sustainably repay the new agreement.

To summarise, better checks would likely have shown that the overwhelming majority of Mr S's spending at the time went on gambling transactions, so he was unlikely to have any disposable income available each month. So he wouldn't be in a position to afford the new borrowing. His financial situation was likely to continue to deteriorate month on month if he continued to gamble at the same level.

It follows that from what I've seen, it's my intention to make a finding that had Moneybarn carried out reasonable and proportionate checks it would have seen that the lending wasn't affordable. It therefore didn't act fairly by approving the finance."

Mr S responded to receiving my provisional decision but had nothing further to add. Moneybarn hasn't responded with any further evidence or information within the two weeks I have given them to do so.

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.

Moneybarn will be familiar with all the rules, regulations and good industry practice we consider when looking at a complaint concerning unaffordable and irresponsible lending. So, I don't consider it necessary to set all of this out in this decision. Information about our approach to these complaints is set out on our website.

In the absence of any new evidence, my finding remains that Moneybarn ought to have carried out better checks. Had it done so it would have seen that the new agreement was unaffordable for Mr S.

I therefore uphold this complaint. Moneybarn needs to put things right for Mr S.

Putting things right – what Moneybarn needs to do

As I don't think Moneybarn ought to have approved the lending, I don't think it's fair for it to be able to charge any interest or charges under the agreement. Mr S should therefore only have to pay the original cash price of the car, being £5,745. Anything Mr S has paid in excess of that amount should be refunded as an overpayment.

To settle Mr S's complaint Moneybarn should do the following:

- Refund any payments Mr S has made in excess of £5,745, representing the original cash price of the car. It should add 8% simple interest per year* from the date of each overpayment to the date of settlement.
- Remove any adverse information recorded on Mr S's credit file regarding the agreement.

*HM Revenue & Customs requires Moneybarn to take off tax from this interest. Moneybarn must give Mr S a certificate showing how much tax it's taken off if he asks for one.

My final decision

I uphold this complaint and direct Moneybarn No.1 Limited, trading as Moneybarn, to put things right in the manner I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 7 June 2024.

Michael Goldberg

Ombudsman