DRN-4850439

The complaint

Mrs F complains about Moneybarn No.1 Limited's decision to lend to her. She says the loan was unaffordable. And she's unhappy about the way Moneybarn treated her when she fell into arrears.

What happened

In August 2019 Moneybarn No.1 Limited (Moneybarn) provided Mrs F with finance to purchase a used car. The car cost £8,990 and Mrs F paid a deposit of £700. She entered into a conditional sale agreement to finance the remaining £8,290. After interest and charges the total amount due was £19,911.58, repayable in 59 monthly instalments of £325.62. Mrs F missed payments repeatedly and voluntarily terminated the agreement in September 2022.

In August 2023, Mrs F complained to Moneybarn saying that they didn't undertake appropriate affordability checks. She said she was in receipt of benefits when she applied for the finance and couldn't afford the monthly repayments. Mrs F also complained about Moneybarn's treatment of her when she fell behind with her payments. Moneybarn didn't agree with Mrs F's complaint. In their view, they carried out reasonable checks which showed that the payments for this agreement were affordable for Mrs F, and they lent on that basis. They added that they worked with Mrs F when she contacted them about financial difficulties and offered her appropriate support.

Mrs F remained dissatisfied with Moneybarn's response and referred the complaint to our service, where it was considered by one of our investigators. Our investigator thought Moneybarn's checks had been proportionate and that they'd reached a fair lending decision. He didn't think Moneybarn had treated Mrs F unfairly when she struggled to make repayments. For this reason, he didn't think Mrs F's complaint should be upheld.

Mrs F didn't agree with our investigator's view. She said it wasn't true to say she didn't have any debt at the time, pointing out that if her credit file showed no adverse information, she'd have been able to secure a better finance deal. She also disputed the figures Moneybarn used in their assessment of her income and expenditure. Mrs F asked for an ombudsman's decision – and the complaint came to me.

I issued a provisional decision on 15 May 2024, saying I wasn't inclined to uphold Mrs F's complaint. In that I said:

> *"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I was sorry to hear of the impact what's happened had on Mrs F. I realise my provisional decision will likely come as disappointing news, but based on the information I currently hold, I don't intend to uphold her complaint.*
>
> *The Financial Conduct Authority (FCA) sets out in a part of its handbook known as CONC what lenders must do when deciding whether to lend to a consumer. In summary, a firm must consider a customer's ability to make repayments under the*

agreement without having to borrow further to meet repayments or default on other obligations, and without the repayments having a significant adverse impact on the customer's financial situation. CONC says a firm must carry out checks which are proportionate to the individual circumstances of each case.

When determining what's proportionate, we'd expect lenders to think about the nature of the credit (the amount repayable and the term, for example) and about the applicant's individual circumstances. I'd expect a lender to find out more about a prospective borrower's ability to repay if for example, a borrower's income was low, the amount lent was high, or the borrower's credit file reveals an impaired credit history.

<u>Were Moneybarn's checks proportionate?</u>

I've thought about the checks Moneybarn carried out. Moneybarn verified Mrs F's declared income of £1,500 using data from one of the credit reference agencies (CRA). CONC allows lenders to use CRA data for income verification, so I can't say Moneybarn acted unreasonably here.

Moneybarn also checked Mrs F's credit report. While they didn't keep a copy of the credit search, they kept notes, which they sent us. These notes show that Moneybarn didn't see any adverse information, such as defaults, county court judgments or missed payments recorded on Mrs F's credit file. And that Mrs F didn't have any outstanding debts at the time of her application. Mrs F disputes this – she says she was making repayments towards some furniture as well as other debts. Mrs F hasn't been able to provide us with a copy of her credit report, so I can't see what information Moneybarn likely would have seen during a check.

I've considered this carefully. At the time of her application, Mrs F was known as Ms P, and prior to that she used her maiden name, Miss D. The evidence from Moneybarn suggests they ought to have been aware of Mrs F's name changes. I asked Moneybarn if they used both Mrs F's previous surnames when conducting their searches, but they couldn't tell me. I think it's likely Moneybarn didn't search one of Mrs F's surnames. I say this because during my investigation I could see Mrs F was making payments to credit providers, which means she must have had some form of credit at the time of her application. This means that Moneybarn likely only had a limited view of Mrs F's credit commitments and account conduct when considering her application. And this could impact Moneybarn's ability to decide what proportionate checks should look like in relation to Mrs F's application.

Moneybarn used data from the Office for National Statistics (ONS) to calculate Mrs F's likely outgoings. CONC allows lenders to use statistical data in this way unless they know or have reasonable cause to think it wouldn't be appropriate to do so. While Moneybarn says Mrs F didn't have any outstanding debts or adverse information, I think they ought to have done more to verify Mrs F's likely outgoings.

I say this because Mrs F told Moneybarn that she wasn't working and that her income was made up of state benefits. She declared her monthly income to be £1,500. Given that the proposed repayment represented over 20% of Mrs F's net monthly income, payable over five years, I think it would have been proportionate for Moneybarn to do more to understand Mrs F's expenditure rather than relying on estimates.

In summary, I'm inclined to say Moneybarn didn't carry out reasonable and proportionate affordability checks before lending.

What would proportionate checks have shown?

I've considered what Moneybarn would likely have found out if they had completed reasonable and proportionate affordability checks.

I've already set out that I'm satisfied Moneybarn did enough to verify Mrs F's income. She told Moneybarn she was in receipt of benefits and that her net monthly income was £1,500. On review of her bank statements, I can see Mrs F's income was consistent in the three months leading towards her application. She received around £1,310 in benefits, £83 in child benefit and £350 in child support, giving an overall average net income of £1,743 per month.

There are different ways a lender can go about checking a prospective borrower's non-discretionary and committed expenditure. I can't be sure what Moneybarn would have done had they decided to conduct further checks, or what Mrs F would have told them. In the absence of anything else, I've placed significant weight on the information contained in Mrs F's bank statements for the three months leading up to her application as an indication of what would most likely have been disclosed.

We asked Mrs F to provide us with copies of her credit reports as well as bank statements for all accounts she was using to pay bills or receive income between June and August 2019. Mrs F sent us statements for one of her accounts, although it's apparent that she also had another account she was regularly transferring money in and out of. She said she couldn't provide us with her credit reports.

Moneybarn sent us a copy of an I&E exercise they undertook with Mrs F in March 2020, after she contacted them for help with her payments. During the I&E exercise Moneybarn asked Mrs F about her average fixed and flexible costs per month. As only around seven months had passed since Mrs F's application, I find it likely that the figures she gave Moneybarn for rent, food, utilities and communication would have been broadly representative of what she paid in August 2019. So, where appropriate, I've used information Mrs F provided in 2020 when looking at her likely committed expenditure at the time of her application.

Mrs F's bank statements show she paid £379 on rent, an average of £25 on petrol, and £6 at an educational setting. I couldn't see council tax payments, and Mrs F told us she wasn't liable for paying it. I also couldn't see any utility payments on the bank statements. Mrs F explained that she was paying around £20 per week to top up her utilities using cash. I can see withdrawals of at least this amount from her bank account, so I'm inclined to accept Mrs F's testimony on this point. It's also broadly in line with what Mrs F told Moneybarn in March 2020. And so, I'm inclined to say Moneybarn would have included £87 per month for utilities had they done proportionate checks.

Mrs F told Moneybarn she spent £325 on groceries in March 2020. Her bank statements show she spent around £234 a month, but that doesn't account for groceries paid for in cash or by credit card. I'm aware Mrs F had three dependent children and so I think it's likely her food cost was higher and in line with what she told Moneybarn in March 2020. I'm inclined to say Moneybarn would have included £325 for food had they done proportionate checks.

Mrs F's statements don't show payments towards communication providers, but she told Moneybarn during the I&E exercise that she spent around £238 per month on home phone, internet, TV packages, TV licence and mobile phones. I'm inclined to *say Moneybarn would have included £238 per month to account for Mrs F's communication cost.*

In terms of credit commitments, Mrs F told us she was paying off some furniture and other debt. Her bank statements don't show regular repayments towards a loan or store credit provider. There's one £30 payment around two months before she applied for finance from Moneybarn, but it's not clear what this is for. The statements do show lump sum repayments to a credit card provider.

Lenders aren't required to take into consideration actual repayments for revolving credit. Instead, CONC requires firms to assume borrowers repay debt within a reasonable timeframe. I'd usually be inclined to say Moneybarn should allow repayments of 5% of outstanding credit balances. But without a credit report or other evidence to show what Mrs F's credit commitments were at the time, it's difficult for me to say what Moneybarn should have included in their assessment of Mrs F's expenditure.

Overall, I'm inclined to say Moneybarn would have confirmed that Mrs F had an average monthly committed expenditure of £1,060. I've set out above that Moneybarn used £1,500 as Mrs F's net income as that's what they were able to verify. I can't ignore the possibility that Moneybarn would have found out Mrs F's income was higher than stated had they undertaken proportionate checks. And it wouldn't be fair for me now to base my calculation on the lower income.

So, deducting Mrs F's monthly committed expenditure of £1,060 from £1,743 would leave her with £683 for discretionary and emergency expenditure as well as the cost of owning a car. Based on the information available to me, I'm inclined to say that, had Moneybarn conducted proportionate checks they'd likely have been able to confirm Mrs F had sufficient disposable income to make the repayments. It's more likely than not that Moneybarn would have then reached the same lending decision. So, I'm inclined to say Moneybarn didn't act unfairly or unreasonably in agreeing to lend to Mrs F.

<u>Did Moneybarn act unfairly or unreasonably in some other way?</u>

I've considered Mrs F's complaint about Moneybarn's treatment of her when she first began struggling to make the repayments, when the Covid-19 pandemic meant she had to self-isolate for 12 weeks prior to a medical procedure. Mrs F's financial difficulties continued after that due to changes in her personal circumstances.

CONC requires firms to treat customers in financial difficulty with forbearance and due consideration, allowing them time and space to bring things back up to date. I can see from Moneybarn's contact notes that between March 2020 and August 2022 there was extensive communication between them and Mrs F. This included several income and expenditure assessments with Mrs F, payment plans being put in place, allowing payment holidays, explaining Mrs F's exit options and providing her with details of organisations she could contact to help with her finances.

Mrs F said she felt bullied into paying more than she could afford, and that Moneybarn threatened to take the car away from her. CONC requires firms to keep the level of debt, and associated interest and charges, under review and prevent potentially putting customers in an unsustainable position and causing financial difficulties. So I can't say that setting up payment plans when income and expenditure assessments showed Mrs F had capacity to make some repayments towards her outstanding debt was unreasonable.

I can see that Moneybarn warned Mrs F that they may need to end the agreement and collect the car. Given Mrs F's level of arrears at that point I think it was reasonable for Moneybarn to explain the possible consequences. I appreciate it would have been upsetting for Mrs F to hear she might lose her car, but I think Moneybarn's warning was appropriately worded. Overall, I'm satisfied Moneybarn treated Mrs F with forbearance and due consideration. Although I don't intend to uphold Mrs F's complaint, I'd like to remind Moneybarn to continue to treat Mrs F in the same manner while she repays the sum outstanding under the agreement."

Neither Mrs F nor Moneybarn responded to my provisional 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.

As neither party has raised any additional arguments or provided further information for me to consider, I've got nothing further to add – my findings are unchanged from those set out above.

My final decision

For the reasons I've explained, my decision is that I'm not upholding Mrs F's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F to accept or reject my decision before 11 July 2024.

Anja Gill
Ombudsman