

## **The complaint**

Mr L complains about how Moneybarn No. 1 Limited ('Moneybarn') administered his conditional sale agreement when he was unable to repay it. He says that:

- It didn't notify him when his direct debit was cancelled.
- It didn't help him make a repayment when he wanted to do this.
- It didn't tell him that he had missed payments before issuing a default notice.

## **What happened**

Mr L has made a complaint about the quality of the car that he acquired. This complaint has been considered separately, and I won't look at the quality of the car at all here. I'm only looking at the administration of the finance agreement.

Mr L acquired a used car using a conditional sale agreement which was started in October 2022. The vehicle had a retail price of £18,499. Mr L paid a £3,419 deposit meaning £16,080 was financed. This agreement was to be repaid through 60 monthly instalments of £534.67. If Mr L made repayments in line with the credit agreement, he would need to repay a total of £33,964.53.

Below is a summary of the administration and repayment issues that have led to this complaint. I won't detail every point of contact, as I don't think I need to. And I won't necessarily deal with all the issues raised by Mr L. But I would like to reassure all the parties to the complaint that I have read everything that has been provided to me.

The first repayment was scheduled to be made on the 27 November 2022, and payments were due on the 27th of each month going forward. On 29 of October 2022 Mr L asked that the repayment date be changed to 15th of each month. Moneybarn agreed to this, and the first repayment was moved to the 15th of December 2022.

Mr L's direct debit was returned as unpaid when Moneybarn attempted to take the payment in December 2022.

Moneybarn tried to contact Mr L about this via text messages and telephone calls but, as far as I can see, Mr L didn't respond. Moneybarn was also unable to collect the payment that was due on 15 January 2023 for the same reasons.

On 17 January 2023, Moneybarn issued a Notice of Sums in Arrears ('NOSIA'). At this point Mr L had missed repayments totalling £1,069.34. He was unhappy at receiving the NOSIA. This is because he says the car wasn't in his possession due to the problems he was having with it, the car was at the dealership.

Going forward Moneybarn was unable to collect the repayments due in February and March 2023. On 30 March 2023, Moneybarn issued Mr L with a notice of default. This said that Mr L had breached the agreement by:

- Not having the goods in his possession and failing to insure them.

- Failing to make any payments towards the agreement.

The default notice said that Mr L needed to show that he had insured the car and he needed to pay the full arrears of £2,138.68 before 19 April 2023.

Mr L and Moneybarn discussed the account on 3 April 2023 and Mr L explained that he was trying to reject the car due to the problems he was having with it. The car had been with the dealership most of the time of ownership. Mr L agreed to start making the monthly repayments at this time plus an extra £500 per month.

On 20 April 2023, Moneybarn confirmed the revised repayment agreement by letter and a new direct debit was set up. It said the arrears were £3,708.68. Mr L had agreed to make seven additional monthly repayments of £500 and a final extra repayment of £208.68. This was in addition to recommencing his regular monthly repayments.

Moneybarn collected the agreed payments in May 2023. That was the original repayment of £534.37 plus the £500. Totalling £1,037.67.

Moneybarn said that on 9th June 2023 it was notified that Mr L had cancelled the direct debit. It didn't receive a payment from Mr L another way this month.

On 22 June 2023, Moneybarn wrote to Mr L and said that the repayment plan was no longer in place, and he now owed £3,743.35.

On 3 July 2023, Moneybarn issued a second NOSIA, and a second default notice was issued on 6 July 2023 when the arrears were £2,173.35. Mr L was informed on 7 July 2023 that he needed to make up the arrears or the agreement would be terminated.

Mr L did make a payment of £1,034.67 on 17 July 2023 after he received bank payment information from Moneybarn. And correspondence was ongoing between the parties, mostly about the quality of the car, but Mr L couldn't clear the arrears and a termination notice was issued on 31 July 2023.

The car was repossessed in due course and sold at an auction with the amount the car was sold for being taken from Mr L's outstanding finance amount. Moneybarn has told Mr L that he still needs to pay an outstanding balance of £19,460.85.

Mr L complained to Moneybarn saying that he hadn't cancelled the direct debits, and he was provided with inadequate information about the plan and arrears. He had tried to get in contact when he realised he had missed payments, and he felt that if Moneybarn had acted properly than this issue could have been resolved without the account being terminated.

Moneybarn considered this complaint, and didn't uphold it. It said that it had provided full information to Mr L and made him aware of what would happen if he was unable to make the finance payments. It noted he had built up significant arrears and it was not unreasonable to terminate the account. Mr L didn't agree with this and brought his complaint to the Financial Ombudsman Service.

Our Investigator didn't uphold Mr L's complaint. She said that:

- Mr L was responsible for making the repayments even if there were problems with the car, it wasn't agreed that Mr L could have a break from the repayments.
- Moneybarn didn't cancel Mr L's direct debit, and it didn't need to proactively get in touch with him about this.

- Moneybarn didn't terminate the contract too soon, or incorrectly, as there was little prospect of Mr L being able to pay the agreement reliably.
- Moneybarn communicated reasonably with Mr L, even though there were times it could have been quicker.

Mr L didn't agree with the Investigator. He said that the quality of the car complaint was still relevant. But in respect of the administration of the account he said that:

- Moneybarn did not notify him when the direct debit was cancelled, and it did not inform him when it could not take the repayment due to a failed direct debit.
- It did not always respond to his emails and texts in a timely manner. This shows they purposefully wanted to end the agreement.
- The fact that he tried to make some repayments shows that he was trying to pay the account, but they are a big team and should have let him know when the direct debit was cancelled.
- He did not pay as he did not have the vehicle.

There was some further correspondence, but no new issues were raised. Because Mr L didn't agree, this matter has been passed to me to make a final 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 considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider was good industry practice at the relevant time.

I think there are two main issues to consider here, was Moneybarn acting correctly when it terminated Mr L's agreement and did it communicate with him properly about this.

Given what I have outlined above, I think it's established that Mr L was unable to reliably make the contractual loan repayments. He was significantly in arrears by the start of 2023, and in the communications he had with Moneybarn going forward, he was informed that he must make the contractual repayments, at the agreed time, and make the agreed extra repayments.

He was given two NOSIA's and two default notices which clearly outlined what would happen if he was unable to do this. As I've outlined above the finance remained in arrears and a further direct debit was cancelled, which to me indicates there would be continuing payment problems.

So, I don't think it's reasonable to say that Mr L had the ability, or intention, to pay the car finance. By this I mean it's clear that Mr L was unable to pay the contractual loan repayments on time and when they became due and make up the payments he had missed. By the middle of 2023 he'd missed a significant number of contractual repayments and he also hadn't been able to fully stick to the agreed plan to repay some of the arrears. I don't think there was a reasonable prospect of him being able to pay the car finance at this point.

I don't think it was unfair of Moneybarn to recognise this and take the appropriate action. So, I don't think that Moneybarn was acting unfairly when it defaulted the loan and terminated the agreement. Or when it ultimately sold the car and reduced what Mr L owed by the sale proceeds of the car.

Mr L says that all of this wasn't properly communicated to him. As I've said I haven't reproduced all the correspondence, and I don't think I need to. I have looked at it all and have noted that there were numerous telephone conversations, text messages and emails between Mr L and Moneybarn that concerned the arrears and that he was told of the risk of a default. And he received two NOSIA's and two default notices by letter before the loan defaulted and Moneybarn took steps to repossess the car. I think Moneybarn fully informed Mr L about all of this.

I accept there were times that Moneybarn could have acted in a timelier manner, but overall, I think the information provided to Mr L was reasonable. And in any event, as I've found above, I don't think that Mr L was able to pay the finance and so I don't think that further, or more timely communications at times, would have altered what happened with the finance and the car. And I don't think Moneybarn wanted to purposefully end the agreement, I think the agreement was ended as Mr L was unable to repay it.

Mr L has said that he should have been given better information from Moneybarn when it was unable to collect the repayment in June 2023 as the direct debit had been cancelled. Moneybarn is unable to cancel a direct debit itself, this can only be done by Mr L (or his bank with his permission). So, I think that Mr L would have been made aware of this when the direct debit was cancelled by him (which he must have done) or by his bank. And as I've said I think overall Moneybarn's communication were reasonable. And that further communication wouldn't have changed the eventual outcome that the finance was terminated, and the car was repossessed.

I can see that Mr L thinks that he was right not to pay the finance as he was not in possession of the car, or the car was being repaired. Whilst I can see why he thinks this I don't think it's right. Mr L had agreed to the finance and, even if there were some problems with the car (and I've not investigated whether there were or not), he still needed to pay it.

I appreciate this will not be the answer that Mr L is looking for and I hope his circumstances have improved and losing the car did not have too great an impact on him. But overall, I'm not upholding this complaint.

I understand Mr L still owes Moneybarn a significant amount. When Moneybarn is arranging how Mr L should repay this, I would remind Moneybarn of its responsibility to treat Mr L fairly and with forbearance. and positively assist him with this debt.

### **My final decision**

For the reasons set out above, I'm not upholding Mr L's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 19 March 2025.

Andy Burlinson  
**Ombudsman**