

## **Complaint**

Miss S complains that Moneybarn No.1 Ltd (“Moneybarn”) unfairly entered into a conditional-sale agreement with her. She’s said the agreement was unaffordable for her.

## **Background**

In August 2018, Moneybarn provided Miss S with finance for a used car. The cash price of the vehicle was £8,563.00. Miss S paid a deposit of £155 and entered into a 60-month conditional sale agreement with Moneybarn for the remaining £8,498.00 she needed to complete her purchase.

The loan had interest, fees and total charges of £8,195.46 and the total amount to be repaid of £16,693.46 (not including Miss S’ deposit) was due to be repaid in 59 monthly instalments of £282.94.

Miss S’ complaint was considered by one of our investigators. He didn’t think that Moneybarn had done anything wrong or treated Miss S unfairly. So he didn’t recommend that Miss S’ complaint should be upheld.

Miss S disagreed with our investigator’s assessment and asked for her complaint to be 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 Miss S’ complaint.

Having carefully thought about everything I’ve been provided with, I’m not upholding Miss 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 Miss S could make her payments in a sustainable manner before agreeing to lend to her. And if the checks Moneybarn carried out weren’t sufficient, I then need to consider what reasonable and proportionate checks are likely to have shown.

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 it completed an income and expenditure assessment on Miss S. During this assessment, Miss S provided details of her monthly income which it verified against copies of bank statements which it asked her to provide.

Moneybarn says it also carried out credit searches on Miss S which showed that she had some adverse information recorded against her – in the form of defaulted accounts with the most recent of these being around six months prior to this application. Miss S also had a County Court Judgment ("CCJ") recorded against her around a year prior to this application.

Furthermore, in Moneybarn's view, when repayments to the amount Miss S already owed plus a reasonable amount for Miss S' living expenses was deducted from her monthly income the monthly payments were still affordable. On the other hand, Miss S says she was already struggling at the time and that these payments were unaffordable.

I've thought about what Miss S and Moneybarn have said.

The first thing for me to say is that bearing in mind Miss S' previous difficulties with credit, the amount being lent, as well as the term and total cost of the agreement, I'm satisfied that ought to have paid closer attention to the bank statements it obtained in order to have determined Miss S' actual living costs. I think that it should have done this instead of assuming Miss S' living expenses in order for its checks to have been reasonable here. Moneybarn did not do this so I'm satisfied that its checks before lending in this instance weren't proportionate.

As Moneybarn should have done more, I've gone on to decide what I think Moneybarn is more likely than not to have seen had it done that here. I've considered the bank statement information Miss S has provided. I wish to make it clear that I'm not going to forensically re-underwrite Miss S' application.

I say this particularly as Miss S' most recent submissions are being made in support of a claim for compensation and any explanations she would have provided at the time are more likely to have been with a view to persuading Moneybarn to lend, rather than highlighting any unaffordability.

As this is the case, I'm simply going to try and get some idea of what Moneybarn is likely to have found out about Miss S' living expenses had it done proportionate checks. I say this because when what the bank statements Miss S has provided show what she was paying to her living expenses are added to her active credit commitments and deducted from her income, she, at the time at least, appears to have enough left over to make the monthly payments to this agreement. Indeed Miss S' bank statements show a surplus left in her account each month.

So overall and having carefully considered everything, while I'm not persuaded that Moneybarn's checks before entering into this conditional-sale agreement with Miss S did go far enough, I'm not satisfied that doing more here would have seen Moneybarn deciding against providing these funds, or entering into this agreement with her.

For the sake of completeness I would also add that the balance that remains on Miss S' account remains because even though she has returned the vehicle she is still liable to repay half of the total amount due under this agreement. So while Miss S may be unhappy at what she is being asked to pay, I think that Moneybarn has calculated what she owes in

accordance with the regulations and I don't think it has acted unfairly in relation to this matter.

In reaching this conclusion I've also considered whether the lending relationship between Moneybarn and Miss S might have been unfair to Miss S under section 140A of the Consumer Credit Act 1974 ("CCA").

However, for the reasons I've explained, I don't think Moneybarn irresponsibly lent to Miss S or otherwise treated her unfairly in relation to this matter. And I haven't seen anything to suggest that section 140A CCA or anything else would, given the facts of this complaint, lead to a different outcome here. So I'm not upholding this complaint.

I appreciate that this will be very disappointing for Miss S. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

Although I'm not upholding Miss S' complaint, I would remind Moneybarn of its continuing obligation to exercise forbearance and due consideration on the balance that remains, given that Miss S has said she's having difficulty making her payments.

I would also encourage Miss S to get in contact with and co-operate with any steps that may be needed to review what she might be able to repay going forward. Miss S may be able to complain to us – subject to any jurisdiction concerns – should she be unhappy with Moneybarn's actions in relation to exercising forbearance going forward.

### **My final decision**

My final decision is that I'm not upholding Miss S' complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 19 August 2024.

Jeshen Narayanan  
**Ombudsman**