

Complaint

Mr S complains that Moneybarn No. 1 Limited ("Moneybarn") unfairly entered into a conditional sale agreement with him. He's said that this agreement was unaffordable for him.

Background

In November 2018, Moneybarn provided Mr S with finance for a used car. The purchase price of the vehicle was £8,285.00. Mr S didn't pay a deposit and took out a conditional sale agreement with Moneybarn for the entire amount. The loan had interest and charges of £7,766.50 and a 59-month term. This meant that the total amount to be repaid of £16,051.50 was due to be repaid in 58 monthly instalments of £276.75.

Mr S 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 S' complaint was considered by one of our investigators. She didn't think that Moneybarn had done anything wrong or treated Mr S unfairly. So she didn't recommend that Mr S' complaint should be upheld.

Mr S 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 S' complaint.

Having carefully thought about everything I've been provided with, I'm not upholding Mr 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 was sustainable for Mr S 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 S provided details of his monthly income, which it cross referenced against information it obtained from credit reference agencies on the amount of funds credited to Mr S' main bank account each month.

It says it also carried out credit searches on Mr S which had shown Mr S had previously defaulted on credit with the most recent occasion that this happened being more than five years prior to this application. The credit search also showed that Mr S also had no county court judgments ("CCJ") taken out against him. In Moneybarn's view, when reasonable payments to the amount Mr S already owed plus a reasonable amount for Mr S' living expenses were deducted from his monthly income the monthly payments for this agreement were still affordable.

On the other hand, Mr S says his existing commitments meant 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 S and Moneybarn have said.

The first thing for me to say is that I'm not persuaded that the checks Moneybarn carried out did go far enough. I'm not persuaded that it was reasonable to rely on an estimate of Mr S' living costs given what Moneybarn saw on the credit search it carried out. And I think that this ought to have led Moneybarn to do more to work out Mr S' actual regular living costs, rather than relying on estimates of this. That said, I don't think that obtaining further information on Mr S' actual living costs would have made a difference to Moneybarn's decision to lend in this instance.

To be clear I'm not going to carry out a forensic analysis of whether the loan payments were affordable. I'm simply going to consider what Moneybarn is likely to have done if it obtained the information I think it should have done.

I say this because the information Mr S has provided about his finances at the time appears to show that when his visible 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. So I don't think that Moneybarn finding out more about Mr S' actual living expenses, rather than relying on estimates like it did, would have made a difference to its lending decision in this instance.

Overall and having carefully considered everything, while I'm not persuaded that Moneybarn's checks before entering into this conditional sale agreement with Mr S did go far enough, I'm satisfied that carrying out reasonable and proportionate checks won't have stopped Moneybarn from providing these funds, or entering into this agreement with him.

In reaching this conclusion I've also considered whether the lending relationship between Moneybarn and Mr S might have been unfair to Mr 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 Mr S or otherwise treated him unfairly. And I haven't seen anything to suggest that section 140A CCA or anything else would, given the facts of this complaint

I appreciate that this will be disappointing for Mr S. 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 S' complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 22 August 2024.

Jeshen Narayanan
Ombudsman