

The complaint and what happened

Mr G complains that Moneybarn No.1 Limited, trading as Moneybarn, lent to him irresponsibly and without carrying out proper affordability checks. He would like all the interest and charges associated with the conditional sale agreement refunded, and any adverse information removed from his credit file.

I've included relevant sections of my provisional decision from June 2024, which form part of this final decision. In my provisional decision I set out the reasons why I was planning to uphold this complaint. In brief that was because I thought the checks Moneybarn carried out ought to have led it to conclude that this borrowing was not affordable and sustainable for Mr G.

I asked both parties to let me have any more information they wanted me to consider. Moneybarn did not challenge my provisional findings, but sought clarification on the redress I was proposing, and Mr G accepted my outcome.

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.

Having done so, I'm upholding it, and I'll reiterate why, but first I've included here the relevant sections of my provisional decision:

"What happened

In August 2017 Moneybarn approved a conditional sale agreement for Mr G, which was used to buy a car. The lending was scheduled to be repaid at approximately £344 per month over a term of 60 months. Mr G struggled to make repayments at several points over the life of the agreement, but it appears that it was ultimately settled in January 2023.

The investigator looked at the evidence and thought Moneybarn hadn't done anything wrong in approving the agreement. Mr G disagreed and asked an ombudsman to look at his complaint.

What I've provisionally 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.

Having done so, I'm currently planning to uphold it, and I'll explain why.

Moneybarn is aware of its obligations under the rules and regulations in place at the time of this lending decision, including the Consumer Credit Sourcebook ("CONC"), so I won't repeat them here. But, briefly, it was required to carry out sufficient checks to ensure that Mr G would be able to repay the borrowing applied for in a sustainable way. As set out in CONC 5.3.1G(2) that means that he could manage the repayments,

“...without...incurring financial difficulties or experiencing significant adverse consequences”

Essentially, he needed to be able to meet his financial commitments and not have to borrow elsewhere to repay Moneybarn for the conditional sale agreement to be considered affordable and sustainable.

There are two questions I need to consider when deciding this case, which I will deal with separately below.

Did Moneybarn carry out proportionate checks before granting this loan?

Understandably, Moneybarn no longer has full information relating to this application, specifically in terms of what the credit check it completed showed. However, it's clear that Moneybarn was well aware of Mr G's troubled credit history; that it verified his income; that it looked at bank statements; and that it completed a form of income and expenditure (I&E) assessment. Ostensibly, these checks may seem to have been proportionate to the circumstances of the application, and provided a reasonable overview of Mr G's financial circumstances. However, as I will go on to explain, I think they showed that Mr G couldn't afford this borrowing.

Was Moneybarn right to conclude that the lending was affordable and sustainable for Mr G?

Overall, I cannot see how the information it gathered about Mr G led Moneybarn to conclude that this borrowing was affordable and sustainable for him.

Moneybarn says that it specialises in lending to customers who may have difficulty obtaining credit elsewhere. And that Mr G's previous financial problems therefore weren't a reason to automatically decline his application. I accept that. But they are one aspect of Mr G's situation in 2017 that needed to be taken into consideration.

Moneybarn's records suggest that it completed some form of I&E assessment in 2017. However, the detail is lacking to enable me to comment on how thorough or reasonable it was. All that is now listed is Mr G's income and an estimation of his monthly credit commitments. None of his other expenses.

However, the information available to Moneybarn in the bank statements it reviewed show very clearly that Mr G had no disposable income and was reliant on borrowing. In short, I can see that Mr G's personal account was overdrawn almost all the time. Whilst his overdraft limit appears to have been £800, and so was comparatively modest in relation to his income, it was still more than twice the amount of the monthly repayment in question here. And his account was almost never in credit. All credits came from his business account, which was simply a conduit to his personal account, and held no significant funds.

I have asked Mr G about some of the expenditure showing on the statements, and he has told me that much of it was both to pay his immediate family's monthly bills, whilst also providing financial support to his parents. I can also see at least one example of him exceeding his agreed overdraft limit and being charged the relevant penalty. Given that there were no spare funds in his business account, I cannot see that he had any real prospect of clearing or reducing his overdraft.

So I think it is clear that his outgoings exceeded his income each month and that he was reliant on his overdraft in order to make ends meet, which appears to have led to him exceeding that overdraft. This was in the light of him still owing over £37,000 on defaulted accounts.

In the round, I cannot see how Moneybarn could have concluded that Mr G would not need to borrow elsewhere in order to meet the monthly repayments on this agreement. That's because, broadly speaking, his outgoings exceeded his income each month by around £800. As explained, borrowing to meet repayments would not be affordable and sustainable for Mr

G, bearing in mind the regulations in force at the time. So it follows that I plan to uphold this complaint."

As mentioned above, Moneybarn has not actually challenged my findings, and Mr G has accepted them. Therefore I have seen nothing which alters my findings as set out in my provisional decision. And so it follows that I uphold this complaint.

Putting things right

In order to put things right for Mr G, Moneybarn must put him in the position where he has paid only the original cash price for the car, namely £11,120. It would appear from the documentation that the car was paid for entirely through this conditional sale agreement, i.e. Mr G does not appear to have paid a cash deposit. So that means that Moneybarn needs to do the following:

- A) Refund any payments Mr G has made in excess of £11,120.
- B) Add 8% simple interest per year* from the date of each overpayment to the date of settlement.
- C) remove any adverse information recorded on Mr G's credit file in relation to this conditional sale agreement.

*HM Revenue & Customs requires Moneybarn to deduct tax from this interest. It should give Mr G a certificate showing how much tax it's deducted, if he asks for one.

My final decision

For the reasons I've explained, I uphold this complaint and Moneybarn No.1 Limited must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 16 August 2024.

Siobhan McBride

Ombudsman