

The complaint

Mr H complains about the costs involved when he returned his motorbike part way through the term of a conditional sale agreement taken with Moneybarn No. 1 Limited trading as Moneybarn.

What happened

Around December 2021 Mr H took a conditional sale agreement with Moneybarn to acquire a new motorbike. The motorbike cost £7,495. Mr H was due to make monthly repayments of £261.61 over 60 months.

Unfortunately, Mr H got into financial difficulty and the account went into arrears over the coming months.

Around January 2024, Mr H discussed his options in relation to the arrears on the account and the return of the motorbike. The same month, Moneybarn wrote to Mr H and said he had chosen the *"Handback Option"*.

In February 2024 the agreement was terminated as the conditions of a default notice that had been issued earlier in the month weren't met. In March 2024 the motorbike was handed back with a mileage of 4,105 and inspected.

In April 2024 Moneybarn wrote to Mr H and explained after the motorbike had been appraised that he would owe around £7,500.

Mr H was unhappy with this. He says it was agreed for him to hand the motorbike back and owe nothing. He complained to Moneybarn.

Moneybarn issued its final response to the complaint in May 2024. This said, in summary, that it sent out communication on 18 January 2024 which stated that the estimate of what Mr H would need to pay if he handed back the motorbike was £0. But, Moneybarn said it had explained it would have to provide an accurate figure after it had assessed the condition of the motorbike. So, it didn't uphold the complaint.

Mr H was unhappy with this and referred the complaint to our service. Mr H reiterated that he expected to owe nothing to Moneybarn and explained how this situation has affected his family life and mental health.

Our investigator upheld the complaint. In summary, she said that Mr H had been given the impression that if he handed the motorbike back using the agreed method, he wouldn't owe anything. She explained if Mr H had understood the true figures, he instead would've taken the option to voluntarily terminate ('VT') the agreement. So, she said Mr H's liability should be limited to what it would've been had this option been taken. She also said Moneybarn should pay Mr H £300 to reflect the distress and inconvenience caused.

Moneybarn said it would accept what the investigator had proposed.

Mr H was unhappy with this. In summary, he said he should not be liable for any arrears on the agreement. And he said he was only given a default once the hand back process was started.

As Mr H disagreed, the complaint was passed to me to decide.

I sent Mr H and Moneybarn an email explaining that after an initial review of the complaint, I was thinking of reaching the same outcome to that of our investigator. But, I said I would likely ask Moneybarn to also update Mr H's credit file. I asked for both parties to make any comments on this before I issued my final decision.

Mr H responded and reiterated the original points of his complaint. And he said had he known the correct costs, he would've kept the motorbike. He also explained the impact the situation has had on his credit file.

Moneybarn didn't respond.

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 think this complaint should be upheld. I'll explain why.

Mr H complains about the administration of a conditional sale agreement. Entering into regulated consumer credit contracts such as this as a lender is a regulated activity. So, I'm satisfied I can consider Mr H's complaint about Moneybarn.

What I need to consider here is whether Moneybarn gave Mr H incorrect or misleading information in relation to the return of his motorbike. If it did, I then need to consider what should've happened.

It's worth firstly explaining that I'm satisfied where Moneybarn have mentioned a "*handback option*" it refers to what's typically known as voluntary surrender ('VS').

It doesn't seem in dispute here that Mr H was given an estimate for the cost if he decided to VS the motorbike of £0. But, it's worth quickly covering off that I agree this was the case as this is a key point.

I've seen a copy of a letter sent to Mr H on 18 January 2024. This gives him the options available for returning the motorbike. In relation to VS, this states:

"We estimate that if you were to handback the vehicle as at the date of this letter you would owe £0.00."

This letter also states:

"We estimate the cost of no action (Default Termination) as at the date of this letter would be £0.00."

Another letter from the same month states:

"Our current estimate of what you'll need to pay us to end the agreement where you've selected the Handback Option is - £0.00"

The letter goes on to state:

“Please note – the figure shown above is an estimate and is not guaranteed; we’ve based it on the latest information we hold for you, and/ or we may have applied assumptions about the condition, mileage and sale value of the vehicle. As the handback process is completed and after we’ve assessed the actual condition of the vehicle, we will be able to confirm a more accurate figure to you.”

I can see Moneybarn wrote to Mr H in April 2024 and said about the condition of the bike:

“We are pleased to inform you that it has been determined that no refurbishment will be required”.

This letter then said it estimated the value of the motorbike to be between £3,000 and £3,500 and explained agent fees of £625 had been applied. This letter said Moneybarn expected that Mr H would be left with a balance of £7,281.40 to £7,7821.40.

In its final response, Moneybarn explained that the figures given to Mr H were only an estimate and that this was made clear. And I accept Mr H was told this. But, I’m satisfied that Moneybarn clearly made an error here, rather than the figures being different because of simply giving an inaccurate estimate.

I say this because of the difference in the ‘estimate’ and the actual figures involved. In order to leave Mr H with a balance of zero under a VS, the motorbike would’ve had to sell at auction for a significantly higher value than what it cost Mr H when it was brand new, and well over double what the estimate for its value was when it was collected.

It follows I’m satisfied Moneybarn made an error here and gave Mr H incorrect information about his options to exit the agreement.

I now need to consider what I think would’ve happened at the time, had Mr H been given the correct information.

Looking again at the letter from January 2024, where discussing VT the letter explains:

“we can discuss an affordable payment arrangement to address any shortfall, often at a much lower rate than your current monthly instalment. We estimate that if you were to voluntarily terminate your agreement as at the date of this letter you would owe £2,419.81.”

It’s worth pointing out to both parties here that I also believe this may not have been a reasonable estimate, as it appears Moneybarn might not have considered arrears owing under the agreement. But, that being said, I think it’s clear the option to VT would’ve ended up being cheaper than the option to VS.

It follows this that I find, had Moneybarn given Mr H the correct figures or reasonable estimates for his options, that he would’ve chosen to VT the agreement, not to VS the motorbike.

I’ve carefully thought about what Mr H said about this, including in his response to the investigator’s view and to my email. He explained he had other options at the time, including deciding not to hand the motorbike back and instead to enter into a repayment plan. But, I think on balance this would’ve been unlikely given what he told us about his finances, the arrears on the account and that he said he wasn’t using the motorbike at the time.

Having thought about all of this, I think it would be fair and reasonable for Moneybarn to limit Mr H’s liability under the agreement to what it would’ve been had a VT been processed following the letter it sent on 18 January 2024.

As I explained to both parties, I'm satisfied it is also fair and reasonable for Mr H's credit file to reflect what it would have if a VT was processed at this time. Moneybarn should consider as part of this that at this point, as I understand it, the agreement hadn't been defaulted.

I've thought about Mr H's response to the investigator's view. And I understand how strongly he feels about being told that he shouldn't owe any arrears to Moneybarn. But, even though Moneybarn gave him incorrect information, handing the motorbike back and owing nothing was never going to be an option given the status of the account. So, Mr H's comments don't change my opinion here.

This situation will mean Mr H is still in debt with Moneybarn. I'd politely remind it of its responsibilities to Mr H if he is still in financial difficulty. It should treat his situation with forbearance and due consideration. And this should include setting up an affordable repayment plan if appropriate.

Finally, I agree with our investigator that Mr H has been caused distress and inconvenience because of what's gone wrong. I think it must have been very stressful and upsetting for Mr H to receive the letters stating he owed several thousand pounds when he'd been given an estimate of zero. I think this must have caused additional worry for him, given the reason he'd handed the motorbike back was because of financial difficulty. And I've had in mind what he told this service about the effect on his wellbeing. Having thought about this, I agree Moneybarn should pay Mr H £300.

My final decision

My final decision is that I uphold this complaint. I instruct Moneybarn No. 1 Limited trading as Moneybarn to put things right by doing the following:

- Limit Mr H's liability under the agreement to what it would've been had he decided to voluntarily terminate it on 18 January 2024
- Update Mr H's credit file to reflect that the agreement was voluntarily terminated as above
- Pay Mr H £300 to reflect the distress and inconvenience caused

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 24 April 2025.

John Bower
Ombudsman