

Complaint

Mr A complains that Moneybarn No. 1 Limited ("Moneybarn") unfairly entered into a conditional sale agreement with him. He's said that the payments to the agreement were unaffordable so he should not have been lent to.

Background

Mr A has also complained about the commission Moneybarn paid to the motor dealer which arranged his finance agreement. But we've explained that that complaint is being looked at separately. And this decision is only looking solely at whether Moneybarn acted fairly and reasonably when agreeing to lend to Mr A.

In January 2020, Moneybarn provided Mr A with finance for a used car. The purchase price of the vehicle was £8,350.00. Mr A didn't pay a deposit and entered into a conditional sale agreement, which had a 60-month term, with Moneybarn for entire purchase amount.

The loan had interest and charges of £7,801.25. This meant that the total amount to be repaid of £16,151.25 was due to be repaid in 59 monthly instalments of £273.75.

Mr A 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.

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

Mr A 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 A's complaint.

Having carefully thought about everything I've been provided with, I'm not upholding Mr A'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 A 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 A provided details of his monthly income, which it cross-checked against information that it obtained from credit reference agencies on the funds going into his main bank account. It says that it also carried out credit searches on Mr A, which had shown that Mr A didn't have any defaulted accounts or county court judgments recorded against him.

In Moneybarn's view, when reasonable repayments towards the amount Mr A already owed on his existing credit commitments plus a reasonable amount for Mr A's living expenses (based on average data) were deducted from what he received each month the monthly payments for this agreement were still affordable.

On the other hand, Mr A says that the payments were unaffordable and there was no way he could maintain them. I've thought about what Mr A and Moneybarn have said.

Having done so, I'm not persuaded that it was reasonable to rely on an estimate of Mr A's living costs bearing in mind the cost of this credit and the term of this agreement. In these circumstances, I think that Moneybarn ought to have done more to ascertain Mr A's actual regular living costs.

As Moneybarn didn't carry out sufficient checks, I've gone on to decide what I think Moneybarn is more likely than not to have seen had it obtained further information from Mr A. Bearing in mind, the length of time of the agreement and the amount of the monthly payment, I would have expected Moneybarn to have had a reasonable understanding about Mr A's regular living expenses as well as his income and existing credit commitments.

In considering this matter, I'm mindful that Mr A signed a declaration to confirm his income and as Moneybarn took steps to cross-check this declaration against the funds going into his bank account, which did not indicate Mr A was receiving less funds into his account each month. So I'm satisfied that it was entitled to rely on Mr A's declaration of income.

In any event, even if I were to accept that the motor dealer submitted a declaration of Mr A's income based on what he expected to earn and that he was employed full time in circumstances where Mr A was only about to start a zero hours contract, I have to consider that this appears to have been done with Mr A's knowledge and I assume permission as well. Indeed, on Mr A's versions of events, it appears that Moneybarn appears to have been the only party left in the dark on this.

Furthermore, the information Mr A has provided does appear to show that when his discernible committed regular living expenses and existing credit commitments were deducted from the amount of the monthly income he declared, he did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

I accept that the real reason for and inability Mr A may have gone on to have was down to the fact that he wasn't able to take up the job that he expected to. I am sorry to hear that this was because he fell ill. However, I've already explained why I don't think that Moneybarn would have known about the position in relation to Mr A's actual income. So while I

sympathise with what Mr A has told us, I'm afraid that this doesn't mean that Moneybarn acted unfairly when accepting his application.

Bearing in mind all of this, I cannot reasonably say that Moneybarn carrying out further checks is likely to have led it to conclude that when Mr A's regular living expenses and existing credit commitments were deducted from what it reasonably believed to be his monthly income, he did not have the funds to sustainably make the repayments due.

Overall and having carefully considered everything, while I'm not persuaded that Moneybarn's checks before entering into this conditional sale agreement with Mr A did go far enough, I've not been satisfied that Moneybarn doing more would have stopped it 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 A might have been unfair to Mr A 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 A or otherwise treated him 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 disappointing for Mr A. But I hope he'll understand the reasons for my decision and at least consider that his concerns have been listened to.

Although I'm not upholding Mr A's complaint, I would remind Moneybarn of its continuing obligation to exercise forbearance and due consideration, given what Mr A has said about him having difficulty making his payments. I would also encourage Mr A to get in contact with and co-operate with any steps that may be needed to review what he might be able to repay going forward. Mr A may be able to complain to us – subject to any jurisdiction concerns – should he be unhappy with Moneybarn's actions in relation to exercising forbearance.

My final decision

My final decision is that I'm not upholding Mr A's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 30 August 2024.

Jeshen Narayanan
Ombudsman