

Complaint

Mrs R 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 March 2021, Moneybarn provided Mrs R with finance for a used car. The cash price of the vehicle was £11,980.00. Mrs R paid a deposit of £500 and entered into a 60-month conditional sale agreement with Moneybarn for the remaining £11,480.00 she needed to complete her purchase.

The loan had interest, fees and total charges of £9,304.52 and the total amount to be repaid of £20,784.52 (not including Mrs R's deposit) was due to be repaid in 60 monthly instalments of £352.28.

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

Mrs R 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 Mrs R's complaint.

Having carefully thought about everything I've been provided with, I'm not upholding Mrs R'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 Mrs R 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 Mrs R. During this assessment, Mrs R provided details of her monthly income which it verified against copies of payslips which it obtained from Mrs R.

Moneybarn says it also carried out credit searches on Mrs R which showed that she had defaulted on previous credit with the most recent occasion this occurred being approaching three years prior to this application. Mrs R didn't have any County Court Judgments ("CCJ") recorded against her though.

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

I've thought about what Mrs R and Moneybarn have said.

The first thing for me to say is that bearing in mind Mrs R's previous difficulties with credit, the amount being lent, as well as the term and total cost of the agreement, unlike our investigator, I'm satisfied that Moneybarn needed to take further steps to ascertain Mrs R's actual living costs, rather than assuming Mrs R'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. Given the circumstances here, I would have expected Moneybarn to have had a reasonable understanding about Mrs R's regular living expenses as well as her income and existing credit commitments.

I've considered the information Mrs R has provided us with. Having done so, I'm satisfied that the information provided appears to show that when Mrs R's committed regular living expenses are combined with her credit commitments and then deducted from the funds she was receiving at the time, she did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

I know that there has been a dispute about an existing hire-purchase agreement which may or may not have been seen by Moneybarn and which Mrs R argues it ought to have known about at the time of the application. I don't know why Mrs R sought to purchase another vehicle less than two years into the term of her agreement to pay for existing one. However, I think it is unlikely – and less likely than not - that Mrs R ever intended to keep both vehicles.

Indeed, the copy of the full credit file Mrs R has provided shows a large payment made to significantly reduce the balance on the earlier agreement shortly after this one. I don't know why the balance on the other agreement wasn't cleared in full at this stage. But, in my view, I'm satisfied that it is more likely than not there wasn't any intention for Mrs R to pay to the old agreement as well as this one.

Finally, it's also worth noting that the bank statements Mrs R has provided do show her having sufficient funds left over in each of the three months leading up to this application, even accounting for all of her spending.

So overall and having carefully considered everything, while I don't think that Moneybarn's checks before entering into this conditional-sale agreement with Mrs R did go far enough, I'm satisfied that doing more won't have prevented Moneybarn from providing these funds, or entering into this agreement with her.

In reaching this conclusion I've also considered whether the lending relationship between Moneybarn and Mrs R might have been unfair to Mrs R 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 Mrs R 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'm therefore satisfied that Moneybarn didn't act unfairly towards Mrs R when it lent to her and I'm not upholding Mrs R's complaint. I appreciate that this will be very disappointing for Mrs R. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

My final decision

My final decision is that I'm not upholding Mrs R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 2 September 2024.

Jeshen Narayanan
Ombudsman