

The complaint

Mrs G believes Moneybarn No.1 Limited trading as Moneybarn acted irresponsibly by agreeing a finance application she'd made.

Mrs G was represented during the claim and complaint process by Company A, a professional representative. For ease of reference, I will refer to any comments made, or any action taken, by either Mrs G or Company A as "Mrs G" throughout the decision.

What happened

In September 2018, Mrs G was supplied with a used car through a conditional sale agreement with Moneybarn. She paid an advance payment of £400, and the agreement was for £9,200 over 60 months; with monthly payments of £345.30.

Mrs G has complained that Moneybarn didn't act responsibly when approving the finance application. She's said they failed to check if she had sufficient disposable income to be able to support the regular monthly payments, which she didn't. So, she didn't think the finance was affordable.

Moneybarn considered this complaint, but they didn't think they'd done anything wrong. They said they'd verified Mrs G's income from the payslips she'd provided, and that they'd calculated her outgoings allowing for non-discretionary expenditure. Moneybarn said that Mrs G's borrowing levels were low, that there were no missed payments on her credit file, and that she hadn't defaulted on any agreements in the last 14-months. So, they didn't uphold her complaint.

Mrs G wasn't happy with this, so she brought her complaint to us for investigation.

Our investigator didn't think the checks that Moneybarn carried out were reasonable and proportionate in the circumstances, and they thought they should've asked for more information about Mrs G's income and expenditure to determine if the agreement was sustainably affordable.

The investigator considered Mrs G's income and expenditure at the time of her application and said that, had Moneybarn done reasonable and proportionate checks, they would've found the application to be sustainably affordable. As such, they didn't think Moneybarn needed to do anything more.

Mrs G didn't agree with the investigator's opinion. She didn't think it was fair to use child benefit and child tax credit as part of her income as this was used to care and provide for her children; and she didn't think her expenditure had been calculated correctly.

I issued a provisional decision on 23 July 2024, where I explained my intention to uphold the complaint. In that decision I said:

When someone complains about irresponsible and/or unaffordable lending, there are two overarching questions I need to consider in order to decide what's fair and reasonable in all of the circumstances of the complaint. These are:

- 1. Did Moneybarn complete reasonable and proportionate checks to satisfy itself that Mrs G would be able to repay the credit in a sustainable way?*
 - a. if so, did Moneybarn make a fair lending decision?*
 - b. if not, would reasonable and proportionate checks have shown that Mrs G could sustainably repay the borrowing?*
- 2. Did Moneybarn act unfairly or unreasonably in some other way?*

And, if I determine that Moneybarn didn't act fairly and reasonably when considering Mrs G's application, I'll also consider what I think is a fair way to put things right.

Did Moneybarn complete reasonable and proportionate checks to satisfy itself that Mrs G would be able to repay the credit in a sustainable way?

There's no set list for what reasonable and proportionate checks are, but I'd expect lenders to consider things such as the amount, duration, and payments of the finance being applied for, as well as the borrowers' personal circumstances at the time of each application.

Moneybarn have said that, when they assessed Mrs G's application, they checked her credit file and validated her income from payslips. While Moneybarn have said the credit file was showing nine defaults totalling over £8,000 and the County Court Judgements (CCJs) totalling over £7,000; they haven't been able to provide a copy of the credit file they actually checked. However, Moneybarn have said that Mrs G hadn't had any new defaults or CCJs for over a year before making the finance application.

Additionally, while Moneybarn said they assessed Mrs G's income from her payslips, there's nothing to show they validated what her regular monthly expenditure was at the time. As such, I'm not satisfied that Moneybarn carried out reasonable and proportionate checks when approving Mrs G's finance application. So, I've gone on to consider what Moneybarn would likely have found had reasonable and proportionate checks been carried out.

Would reasonable and proportionate checks have shown that Mrs G would be able to repay the credit in a sustainable way?

Mrs G has provided copies of her bank statements for the period 27 June to 25 September 2018. While I wouldn't have expected Moneybarn to have necessarily asked Mrs G for copies of these, I'm satisfied that these statements would give a good indication of what Moneybarn would likely have taken into consideration had they asked Mrs G to prove her income and committed expenditure during the period immediately before the finance application was agreed.

The bank statements show that Mrs G received an average of £1,534 a month from her employment, although Moneybarn calculated this to be slightly less from a review of Mrs G's payslips. The bank statements also show that Mrs G received an average of £601 a month from child benefit and tax credits.

While I appreciate Mrs G's comments that this shouldn't be taken into consideration, as this was money designed for her children, her children's expenses (food, clothes etc.) came out of Mrs G's bank account. As such, if these expenses are to be considered, then it's only fair the income should also be considered. As such, Mrs G received an average monthly income of £2,135.

The bank statements show that Mrs G paid £500 a month rent, £170 a month council tax, £90 a month for TV/broadband, and £50 a month phone bill. They also show Mrs G's existing credit commitments of £137 a month. However, what these don't show is any payments for energy or water, which Mrs G says was paid by a top-up meter at an average of another £102 a month. This doesn't seem an unreasonable cost and brings Mrs G's committed monthly expenditure to £1,049 a month.

Mrs G has said she paid around £200 a week for food, £30 a week for petrol, and £72 a week for childcare. These figures are borne out by the bank statements and add another approximately £1,300 a month expenses for Mrs G and her children. Adding this to her committed monthly expenditure would mean that Mrs G wouldn't have any disposable income with which to sustainably repay Moneybarn each month.

As such, I'm satisfied that, had Moneybarn carried out reasonable and proportionate checks, they would've seen that the finance wasn't affordable for Mrs G. So, I'm also satisfied they should now do something to put things right.

Did Moneybarn act unfairly or unreasonably in some other way?

I haven't seen anything to make me think Moneybarn acted unfairly or unreasonably in some other way.

While, for the reasons given, Mrs G shouldn't have been given the finance for the car, she was. And this meant that she had the use of the car from September 2018 until it was sold in May 2022 (with the sale proceeds clearing the outstanding balance with Moneybarn). Because of this, it's only fair that Mrs G pay for the usage of the car.

I've seen the statement of account for Mrs G's finance agreement with Moneybarn. Including the £400 advance payment, by the time the agreement was repaid in May 2022 Mrs G had paid Moneybarn £13,076.10. In addition to this, Mrs G received two balance reductions of £50 each, on 17 June 2020 and 16 November 2020, for 'complaint resolution'. As these payments were used to reduce the balance, rather than compensate Mrs G direct, this means that the total Moneybarn received from Mrs G was £13,176.10.

As the cash price of the car was £9,600, had it not already been sold, I would be asking Moneybarn to unwind the agreement, refund Mrs G the difference between the £13,176.10 they received and the £9,600 cash price (plus 8% statutory interest), remove all adverse entries from her credit file, and transfer ownership of the car to Mrs G.

But the car has been sold, so this isn't possible. When the car was sold on 26 May 2022, £6,751.88 of the sale proceeds were used to settle the agreement with Moneybarn. So, along with the payments Mrs G made, this means that Moneybarn received a total of £19,927.98. As the ownership of the car cannot be transferred to Mrs G, she should instead be refunded the difference between what Moneybarn received and the cash price of the car – a total of £10,327.98 – plus statutory interest.

I therefore intend to ask Moneybarn to:

- *refund all payments Mrs G has paid, including the settlement balance in May 2022, over and above the £9,600 cash price of the car.*
- *apply 8% simple yearly interest on the refund, calculated from the date Mrs G made the overpayments to the date of the refund[†]; and*
- *remove all adverse entries relating to this agreement from Mrs G's credit file.*

[†] *If HM Revenue & Customs requires Moneybarn to take off tax from this interest, Moneybarn must give Mrs G a certificate showing how much tax they've taken off if she asks for one.*

Responses

Mrs G accepted my provisional decision. However, she asked that Moneybarn provide her with a breakdown of their redress calculation. She also asked that Moneybarn provide her with a tax certificate.

Company A responded to my provisional decision to explain they were no longer representing Mrs G in this matter.

Moneybarn chose not to respond to my provisional decision. As they haven't said anything to the contrary, I'm taking their lack of comments to mean they don't object to my provisional decision.

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.

As no-one has objected to my provisional decision, I see no compelling reason why I shouldn't now adopt this as my final decision, and direct Moneybarn to put things right.

Putting things right

For the reasons stated in my provisional decision, and above, I now direct Moneybarn to:

- within 14-days of being advised that Mrs G accepts the final decision, refund all payments Mrs G has paid, including the settlement balance in May 2022, over and above the £9,600 cash price of the car;
- apply 8% simple yearly interest on the refund, calculated from the date Mrs G made the overpayments to the date of the refund[†]; and
- remove all adverse entries relating to this agreement from Mrs G's credit file.

[†]HM Revenue & Customs requires Moneybarn to take off tax from this interest. Moneybarn must provide Mrs G with a full breakdown of their redress calculation, and a certificate showing how much tax they've taken off.

My final decision

For the reasons explained, I uphold Mrs G's complaint about Moneybarn No.1 Limited. And they are to follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 4 September 2024.

Andrew Burford
Ombudsman