

The complaint

Miss A complains that Moneybarn No.1 Limited (Moneybarn) irresponsibly granted her a conditional sale agreement that she couldn't afford to repay. Miss A has also complained about the delays in Moneybarn making its offer.

What happened

In June 2022 Miss A acquired a vehicle financed by a conditional sale agreement from Moneybarn. Miss A was required to make a deposit of £99 and 59 monthly repayments of £545.56. The total amount repayable under the agreement was £32,287.04. Miss A believes Moneybarn failed to complete adequate affordability checks. Miss A says that if it had it would've been clear the agreement wasn't affordable at the time.

Moneybarn initially disagreed. But after Miss A later raised her concerns about financial difficulties it re-opened its investigation and made an offer to settle the complaint. Miss A referred the complaint to Our Service to check if the offer made was fair and reasonable. Miss A also raised further points around how its service had impacted her financially and emotionally.

Our Investigator felt that the offer Moneybarn had already made was a fair one. They thought it was not unreasonable for Moneybarn to reconsider its investigation and could not hold it responsible for costs that occurred in between its investigations.

Miss A didn't agree. She reiterated that she had incurred insurance costs that could have been avoided if Moneybarn had upheld her complaint on first consideration. She also felt that its contact in the interim had made her feel distressed and impacted her mental health. Miss A asked for an Ombudsman to issue a final decision on the matter.

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.

Where evidence is incomplete, inconsistent, or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available evidence and wider circumstances.

We explain how we handle complaints about irresponsible and unaffordable lending on our website. I've used this approach to help me decide Miss A's complaint. Moneybarn needed to ensure that it didn't lend irresponsibly as per the rules set out in the FCA's Consumer Credit Sourcebook (CONC). In practice, what this means is that Moneybarn needed to carry out proportionate checks to be able to understand whether any lending was affordable for Miss A before providing it.

However, both parties are already in agreement that the finance should not have been offered – hence Moneybarn's willingness to make an offer to settle the matter. Neither party has disagreed on this element or responded to our Investigator's opinion with anything other

than questions over the suitability of the offer made. As such I won't be commenting on this element of the complaint any further. Instead, I shall focus my decision on whether I'm satisfied that the offer made by Moneybarn is fair and reasonable in the circumstances.

Putting things right

For clarity, once the vehicle is returned Moneybarn have offered to:

- Deduct the total sum paid to it of £9,346.28 from the amount its calculated as reasonable - £9316.23. This it says is based on 26 months of use of the vehicle.
- Refund the remaining overpayment of £30.05 an apply 8% statutory interest to this sum, less income tax, which means the total refund owed is £30.54
- Remove negative information from Miss A's credit file relating to the agreement

The exact figures above are also subject to recalculation depending on when exactly the vehicle is returned by Miss A.

This offer is generally in line with our service approach to resolving irresponsible lending complaints. It refunds any interest charged on the agreement and removes negative data. It also makes recognition of the fact that Miss A has had use of the vehicle, and the numbers Moneybarn has reached is fair and in line with our own approach to calculation this type of charge for usage. I also agree that its fair for Moneybarn to recalculate the above offer depending on when the vehicle is returned – as any delays likely mean Miss A has had further use of the vehicle than the figure above accounts for.

So, I'm satisfied that Moneybarn's calculations and offer are fair, reasonable and in line with how our Service would resolve complaints of a similar nature. But I'm also aware that Miss A has raised specific concerns that need further consideration.

Firstly, Miss A feels very strongly that she's suffered a loss from the delay in Moneybarn upholding her complaint. In summary she feels she would not have incurred further insurance costs and cancellation charges if Moneybarn had upheld her complaint first time.

I've considered this carefully and can see that the renewal date for Miss A's insurance was 5 August 2024. Moneybarn upheld Miss A's complaint on 7 August 2024 explaining that it would accept the vehicle back. The documentation for Miss A's insurance clearly states that there is a cooling off period of 14 days. I don't feel that it would be fair or reasonable to expect Moneybarn to pay Miss A for any insurance costs – its answer was given within a period of time where Miss A could have mitigated her losses by cancelling the insurance with no charge. As well as this, I can't ignore the fact that Miss A has continued to have use of the vehicle recently, meaning insurance was still required.

Lastly Miss A has explained how Moneybarn's persistent contact with her has caused her significant distress and impacted her mental health. She's provided information in the form of screenshots that demonstrate how Moneybarn was contacting her during the time it was reinvestigating the complaint. I've taken her testimony into full consideration and don't doubt the circumstances have had a great impact on Miss A. And I appreciate that she's willing to share these personal details with us. To award any further compensation I'd need to be satisfied firstly that Moneybarn's contact with Miss A was unreasonable, and secondly that its impact was greater than just a minor inconvenience or upset.

I'm satisfied that Miss A made Moneybarn aware that she was unhappy with the number of phone calls she was receiving at the time. But I'm also aware that Moneybarn explained it would be unable to place a hold on the phone calls as it needed to be in contact to attempt retrieval of the vehicle.

Once Moneybarn was aware of Miss A's financial difficulties I can see it had put her on payment plans to try and support her situation. However, when Miss A's arrears reached an unsustainable level due to missed payments Moneybarn signposted Miss A to debt management charities and advised on her remaining options for returning the vehicle. I'm satisfied that these steps show Moneybarn were treating Miss A with due diligence and forbearance and attempted to assist her with retaining the vehicle until it wasn't the fairest option for her financial circumstances.

So at the point Miss A was then asking Moneybarn to cease contacting her it was attempting to recover its asset. With this in mind, I can't say that it was unreasonable of Moneybarn to explain that it wouldn't be able to halt its attempts to recover the vehicle. Whilst I do appreciate the circumstances and difficulties Miss A was experiencing around the time she made her complaint, Moneybarn had exhausted all other options available and had the right to seek the return of its own asset.

I've also thought about what Miss A has referred to as delays in Moneybarn's investigation. Ultimately, she would have preferred Moneybarn to have reached its offer first time. And I can appreciate why, but I also can't say that Moneybarn acted unfairly when issuing its initial response in a timely manner, and then subsequently re-investigating the matter when it felt that it warranted further investigation due to Miss A's changing circumstances.

In summary whilst I appreciate it will come as a disappointment to Miss A I'm satisfied that Moneybarn's offer to resolve the complaint is a fair and reasonable one. I won't be able to ask Moneybarn to do any more than the offer has already set out. However I would state that if any recalculation leads to a need for further repayments Moneybarn should seek to arrange a suitable payment plan for Miss A's financial circumstances.

My final decision

Moneybarn No.1 Limited had already made an offer to settle the complaint and I think this offer is fair in all the circumstances.

So upon receipt of the vehicle my decision is that Moneybarn No. 1 Limited should arrange settlement in the manner already described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 28 October 2024.

Paul Clarke
Ombudsman