

The complaint

Mr O complains about the service he received from Moneybarn No. 1 Limited (“Moneybarn”). He says he asked it about early repayment and was mis-advised. He’s unhappy with how much he needs to pay to settle the finance and believes there’s been a breach of contract.

What happened

Mr O entered into a conditional sale agreement with Moneybarn in January 2018 for a used car. The cash price of the car was £17,250, and after taking into consideration an advanced payment, the amount of credit provided totalled £15,000. The credit agreement was set up over a 60-month term, with monthly repayments of £530.49, which meant that the total amount repayable by Mr O would be £33,548.91. The car was around seven years old and had been driven nearly 60,000 miles.

In 2019, the car was involved in an accident, and was declared a total loss. Although Mr O received an insurance payment in respect of this - £8,932 – he did not pass this amount to Moneybarn for crediting to his account. Mr O told us that he kept the money.

Moneybarn says that this was a breach of the terms and conditions of the credit agreement that Mr O had entered into, so his agreement was terminated, and when the car could eventually be recovered by Moneybarn, it was sold, with the proceeds applied to Mr O’s account.

In October 2019, Moneybarn contacted Mr O to tell him about his account. He was advised that the outstanding balance on it was £17,290.48 but was told Moneybarn would accept a settlement figure of just over £10,000 as long as payment was received by 22 November 2019. No payment was made so the account remained open, and the outstanding balance remained.

In May 2024, Mr O complained to Moneybarn about the existence of the outstanding balance and said it had given him incorrect information. Moneybarn rejected this complaint. It said its records showed that he’d contacted it in May 2019 about the car being recovered and the agreement terminated. And it reminded him of its correspondence from October 2019 when it confirmed to him the outstanding balance on his account. And it explained that it had communicated with him subsequently by text messaging; email; and letter to confirm the status of his account and the outstanding balance. So, it was satisfied that he should’ve been aware of the balance outstanding on his account.

Moneybarn told Mr O that he should contact it if he needed help or support with his payments, and it gave him details about how he could make contact with someone.

Our Investigator looked at this complaint and said he didn’t think that it should be upheld. He said that although several years had elapsed since the credit agreement had been terminated, he could see that there’d been regular correspondence from Moneybarn to Mr O about his account, and because of this, Mr O should’ve been aware of the status of his account and the outstanding balance on it.

Our Investigator noted that Moneybarn had acknowledged it had provided some poor customer service to Mr O. It had apologised for this and paid him £50 compensation, and our Investigator concluded that this was fair and reasonable in the circumstances.

Mr O disagreed so the complaint comes to me to decide.

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 taken everything into consideration, I've reached the same conclusion as our investigator, and I'll explain why.

I've had the benefit of being able to look at Moneybarn's full case file which, amongst other things, includes Mr O's credit agreement; Moneybarn's *final response letters*; and other correspondence such as several *Notice of Sum in Arrears* letters.

Mr O's credit agreement sets out clearly;

- the amount of credit he's been provided with - £15,000;
- the term of the credit agreement – 60 months
- the monthly payments he'll need to make each month - £530.49; and
- how much he'll repay in total over the full 60 months - £33,548.91.

So, although Mr O told our Investigator that he didn't know that he'd be repaying just over £33,000 in total, I'm satisfied that he ought reasonably to have known this.

There's no dispute that the car was involved in an accident and that it was considered a total loss by the insurer. And the credit agreement sets out what needed to happen in these circumstances. It says the following:

5. Insurance

...
5.5 *You will notify us promptly in the event of the goods being declared a total loss by your insurer...*

5.6 *...You irrevocably appoint us as your agent to:*

...
5.6.3 *receive payment of any insurance claim relating to the goods...*

5.9 *If the goods are lost, stolen or are considered a total loss by the insurer then the following amounts will become immediately payable:*

5.9.1 *All unpaid payments and any other sums due that you should have paid under this Agreement before the total loss.*

5.9.2 *The rest of the total amount payable under this Agreement less a rebate for early settlement as required by law.*

5.10 *In the event of the goods being declared a total loss, any insurance monies you receive directly from your insurance company...will be payable to us with immediate effect...*

5.11 *We will set off any insurance monies received against the sums due under 5.9.1 and 5.9.2 above...*

5.12 Once the goods are declared a total loss, If we do not receive the insurance monies within a reasonable time or the insurance money received is insufficient to discharge the sums due under 5.9.1 and 5.9.2, then we will enforce our rights to recover from you the sums due after having sent you a notice as required by law.

Both parties agree that no payment was made to Moneybarn, so I'm satisfied that Mr O breached the terms and conditions of the agreement. And in doing so, Moneybarn was within its rights to terminate the agreement.

I can see that Moneybarn contacted Mr O on many occasions over the years using different communication channels in order to keep him apprised of the outstanding balance on his account, and the status of his account. So, taking everything into consideration, I'm satisfied that Mr O knew, or ought reasonably to have known, that there remained a balance on his account.

Now, it may be that Mr O is experiencing some financial difficulties that he's not yet disclosed. And I'm pleased to note that in one of its earlier letters, Moneybarn told Mr O that he should contact it if he needed help or support with his payments, and it gave him details about how he could make contact with someone. If this is the case, I'd encourage Mr O to contact Moneybarn as soon as he can, and I'd remind Moneybarn of the need to treat consumers experiencing financial difficulties with forbearance and due consideration, so that its actions are positive and sympathetic.

Taking everything into consideration, I do not uphold this complaint. I know that Mr O will be disappointed with the decision I've made, but I hope he, at least, understands the reasoning behind the conclusions that I've reached.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 21 April 2025.

Andrew Macnamara
Ombudsman