DRN-5548667

## The complaint

Ms S complains that Moneybarn No. 1 Limited ("Moneybarn") entered into a Conditional Sale agreement with her when it was unaffordable. She has complained using a professional representative, but I'll refer to Ms S throughout.

## What happened

In April 2021, Ms S acquired a vehicle which cost £10,500. After paying a cash deposit of £1,000, Ms S borrowed the remaining £9,500 as a result of entering into a Conditional Sale agreement with Moneybarn.

The agreement was due to run for 55 months, with 54 payments of £384.56 starting one month after the agreement began. This meant the total amount payable under the agreement was £21,766.24, of which £11,266.24 was interest, fees and charges.

Ms S complained in December 2024 that adequate checks weren't carried out to make sure the agreement was affordable for her and this made her agreement with Moneybarn unfair. She highlighted that at the point of application she was consistently using her overdraft and was making payments to a debt management company and towards repaying High Cost Credit providers.

Moneybarn responded to the complaint in December 2024. It said it carried out a number of checks before lending. It said this included carrying out a credit check and verifying Ms S's income through credit reference agencies. It said Ms S was found to have defaulted on previous borrowing, which was being repaid, and she also had County Court Judgments (CCJs). But its checks told it the agreement was affordable for her.

The complaint was then referred to our service and an investigator considered Ms S's complaint. They felt the checks weren't proportionate and it wasn't reasonable to rely on average statistical data when Moneybarn knew Ms S had recently struggled to meet her credit commitments. But they felt that Ms S's open banking report indicated that she'd still have enough disposable income to meet her monthly commitments, so Moneybarn would've still found the agreement to be affordable if it had carried out proportionate checks.

Ms S disagreed with the investigator's opinion and the complaint has been passed to me to make a final 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.

I may not comment on every point that's been raised, but I have read and considered everything that's been said. Instead I will focus on what I think are the key points to reach a fair and reasonable decision. This reflects the nature of our service which was set up to be an informal alternative to the courts. I'll make my decision based on the balance of probabilities – that means what I consider is more likely than not to have happened – given the available information, including where information or evidence is missing or contradictory.

In order to reach my decision, I will first consider whether the checks were proportionate given the circumstances of the application. If they were I will go on to consider whether Moneybarn made a fair lending decision. If they weren't I will consider what proportionate checks would've told Moneybarn.

*Did Moneybarn carry out proportionate checks to ensure Ms S could make the monthly repayments to this agreement?*

Before lending, Moneybarn needed to ensure it wasn't lending irresponsibly. In doing so, it had to carry out proportionate checks to establish the monthly payments were affordable and could be made without impacting on Ms S's other commitments or negatively impacting her finances.

There are no specific checks that lenders must carry out, but they should have been proportionate to the circumstances as well as reactive to what Moneybarn knew about Ms S. You might expect checks to be more thorough for a consumer, for example, with lower income or previous debt issues. But you might not expect more detailed checks where, for example, the amount borrowed is low or the borrower has a long history of maintaining credit well. But there are no hard and fast rules and what's proportionate will vary depending on the circumstances.

Moneybarn provided income and expenditure calculations which indicate that Ms S's monthly income had been verified as being £2,000. It also showed her external credit commitments were £172 and, along with her living costs based on ONS data, her total expenditure was just over £1,500.

The credit check it carried out also showed that she had just under £10,000 of unsecured debts, just over £7,500 of defaulted accounts and just over £4,000 of outstanding CCJs.

On this basis it approved the lending.

Moneybarn says that it verified Ms S's salary. However what it has described is checking whether the information reported by Ms S's bank to credit reference agencies about her account turnover was consistent with the stated income figure. I'm satisfied that this cross-checking took place and was with a view to obtaining a form of independent corroboration of Ms S's declaration. But I don't think that what Moneybarn did can fairly and reasonably be considered to be an actual verification of Ms S's income.

Moneybarn knew Ms S had defaulted on previous borrowing, the last of which was seven months before the application – and that she had four CCJs, the last of which was applied four months before the application.

In these circumstances, and given the monthly payments were taking up 20% of what Moneybarn considered to be Ms S's income, I think it needed to find out more about her actual living expenses in order to be in a position where it could reasonably determine that the monthly payments were affordable. It was not proportionate to rely on statistical data, based on average information, where the adverse information on the credit check indicated that Ms S fell outside the profile of the average borrower.

*What would proportionate checks have shown?*

As I outlined above, there are no set checks that must be carried out. Instead checks needed to be reasonable and proportionate in the circumstances.

Moneybarn did obtain credit reference agency information which established Ms S's outstanding credit commitments. It also cross-checked her income with credit reference agencies. But it didn't do anything to verify her income or other commitments.

Given Ms S had a number of relatively recent defaults and CCJs, it would have been reasonable for Moneybarn to verify her income and expenditure.

Had it done so, I can't guarantee what information it would have been provided with or what would have been evidenced in this information, if required, at the time. However we've been provided with a copy of an open banking report which records Ms S's income and expenditure in the months leading up to the application. I wish to be clear in saying that Moneybarn was not required to request this information before it lent to Ms S.

Nonetheless, I consider this information to be a reliable resource and one I can reasonably consider in order to recreate what a proportionate check would more likely than not have shown at the time.

Ms S has said her average committed expenditure was around £2,700, which didn't leave her enough to cover the monthly payment. Our investigator reached the conclusion Ms S's committed expenditure was closer to £2,000. It should be noted that when either of the expenditure amounts arrived at are deducted from Ms S's cross-checked declaration of her income, Ms S didn't have enough left over to repay this agreement.

However, I'm mindful that if Moneybarn had explained to Ms S that her expenditure meant that the monthly payments were unaffordable, Ms S is likely to have explained that she was receiving further payments to help with some of her expenditure. And I think that Moneybarn is likely to have learned that Ms S received around £3,000 a month when her salary, in work benefits and other credits are factored in.

Equally, looking at the evidence provided, I'm also more inclined towards our investigator's assessment of Ms S's expenditure. The figures provided by Ms S indicate the agreement was affordable according to the figures in two of the three months mentioned. And this included average expenditure figures of roughly £600 per month on food along with £715 of 'other' payments. These figures labelled as 'other' consist almost entirely of discretionary expenditure that wouldn't have formed part of a reasonable affordability assessment. Leaving out these 'other' payments leaves Ms S with around £920 in disposable income, taking into account what Ms S actually received each month, which is consistent with the investigator's assessment of her having £988 in order to make the monthly payments to this agreement.

It's arguable that both assessments of Ms S's expenditure included payments that were discretionary. However in any event I'm satisfied based on the evidence provided that if Moneybarn had carried out a proportionate and reasonable check of Ms S's finances, by verifying her income and expenditure, it would have found she had in excess of £900 disposable each month to meet the monthly payments for the agreement. Furthermore, Moneybarn will also have noted that Ms S was paying a deposit of £1,000 as part of this agreement too. Bearing in mind all of this, I think that reasonable and proportionate checks would more likely than not have shown Moneybarn that the monthly payments to this agreement were affordable.

*Did Moneybarn treat Ms S unfairly in any other way?*

Ms S has complained about the lack of support provided when she struggled with her payments. I can see a payment plan was arranged in May 2022 so that Ms S could catch up on arrears and this arrangement continued until October 2022 when the agreement was settled. But I haven't seen any further indication that Moneybarn was informed of Ms S struggling beyond that. So I don't think it unfairly responded to her situation or was made aware of anything that would've warranted further action. Because of this I don't think Moneybarn treated her unfairly in this respect.

In reaching my conclusions, I've also considered whether the lending relationship between Moneybarn and Ms S might have been unfair to Ms S 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 Ms S 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.

## My final decision

My final decision is that I do not uphold Ms S's complaint against Moneybarn No. 1 Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 15 July 2025.

Scott Walker
**Ombudsman**