

Complaint

Mr R complains that Moneybarn No.1 Limited ("Moneybarn") unfairly entered into a conditional sale agreement with him. He's said that the proper checks weren't carried out and he was provided with finance that was unaffordable.

Background

In May 2021, Moneybarn provided Mr R with finance for a used car. The purchase price of the vehicle was £9,990.00. Mr R paid a deposit of £500 and entered into a 60-month conditional sale agreement with Moneybarn for the remaining £9,490.00 he required to complete his purchase.

The loan had interest, fees and total charges of £8,728.02 and the balance to be repaid of £18,218.02 (which does not include Mr R's deposit) was due to be repaid in 59 monthly instalments of £308.78.

Mr R complained that the agreement was unaffordable and so should never have been provided to him. Mr R also complained about the commission Moneybarn paid the credit broker that introduced his business. We've explained that we're considering Mr R's commission complaint separately and so far we've only looked at whether Moneybarn acted fairly and reasonably in agreeing to lend to Mr R.

The affordability complaint was considered by one of our investigators. He reached the conclusion that Moneybarn hadn't done anything wrong or treated Mr R unfairly. So he didn't recommend that Mr R's complaint should be upheld.

Mr R disagreed with our investigator and the complaint was 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 Mr R's complaint.

Having carefully thought about everything I've been provided with, I'm not upholding Mr R's complaint. I'd like to explain why in a little more detail.

I think that it would be helpful for me to start by explaining that we consider what a firm did to check whether repayments to credit were affordable (asking it to evidence what it did) and determine whether this was enough for the lender to have made a reasonable decision on whether to lend.

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.

That said, I think that it is important for me to explain that our website does not provide a set list of mandated checks that a lender is expected to carry out on every occasion – indeed the regulator's rules and guidance did not and still do not mandate a list of checks to be used. It simply sets out the types of things that a lender could do.

It is for a lender to decide which checks it wishes to carry out, although we can form a view on whether we think what was done was proportionate to the extent it allowed the lender to reasonably understand whether the borrower could make their payments. Furthermore, if we don't think that the lender did enough to establish whether the repayments to an agreement was affordable, this doesn't on its own mean that a complaint should be upheld.

We would usually only go on to uphold a complaint in circumstances where we were able to recreate what reasonable and proportionate checks are likely to have shown – typically using information from the consumer – and this clearly shows that the repayments in question were unaffordable.

I kept this in mind when deciding Mr R's complaint.

Moneybarn says it agreed to this application after Mr R provided details of his monthly income which it says that it verified after Mr R allowed it access to his main account. It says it also carried out credit searches on Mr R which did show defaulted accounts but that Mr R had no County Court Judgments ("CCJ") recorded against him.

In its view, when reasonable repayments to the total amount Mr R owed plus a reasonable amount for Mr R's living expenses were deducted from his monthly income the monthly payments were still affordable. On the other hand, Mr R says his existing commitments meant that these payments were unaffordable and there was no way he was going to be able to maintain them.

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

The first thing for me to say is that I don't think it was reasonable for Moneybarn to have relied on statistical data for Mr R's living costs. This is particularly as Mr R's previous difficulties with credit did not suggest that he fell within the profile of the average borrower and it any event had bank account transaction data from Mr R. So I'm not persuaded that it was reasonable for Moneybarn to rely on statistical data in determining Mr R's living costs and I think that its failure to find out about Mr R's actual living costs means that its checks weren't proportionate.

As Moneybarn didn't carry out proportionate checks, I've gone on to decide what I think Moneybarn is more likely than not to have seen had it obtained further information from Mr R. Bearing in mind the circumstances here, I would have expected Moneybarn to have had a reasonable understanding about Mr R's regular living expenses using the bank account transaction data he allowed access to.

I wish to be clear in saying that I'm not going to use the information Mr R has provided to carry out a forensic analysis of whether the repayments to his agreement were affordable. I say this particularly as Mr R's most recent submissions are being made in support of a claim for compensation and I need to keep in mind that any explanations he would have provided at the time are more likely to have been with a view to persuading Moneybarn to lend, rather than highlighting any unaffordability.

Equally, what Moneybarn needed to do was supplement the information it had on Mr R's credit commitments, with some further information on his actual living costs rather than rely on estimates or statistical data. Having Mr R's actual living costs on the account he allowed Moneybarn access to, this appears to show that when his committed regular living expenses and existing credit commitments were deducted from his monthly income he did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

I accept that Mr R's actual circumstances at the time were worse than what the information about his committed living costs and existing commitments to credit shows. I know Mr R has referred to his gambling. Having looked at the copies of the bank statements for another account Mr R has now provided us with, I can see significant gambling. It's possible – but by no means certain – that Moneybarn might have decided against lending to Mr R had it seen this.

However, given the circumstances here, what I need to think about here is what were Mr R's actual committed living costs and what were his existing regular credit commitments? – given this was a first agreement and Mr R was being provided with a car, which he would not be able to gamble, rather than cash.

Mr R allowed Moneybarn access to a different account which he didn't gamble from. This account wasn't overdrawn or showing any other obvious signs of distress. Furthermore, the activity in this account was sufficient for Moneybarn to determine what Mr R's living costs were. In these circumstances, I don't think that there was a reason for Moneybarn to request statements for Mr R's other account. And I'm therefore not persuaded that proportionate checks would have extended into obtaining the bank statements which Mr R has now provided us with.

In my view, proportionate checks certainly wouldn't have gone into the level of granularity whereby Moneybarn ought reasonably to have picked up on Mr R's gambling. I also think that it is unlikely – and certainly less likely than not – that Mr R made any attempt to disclose his gambling at the time, or that Moneybarn knew or ought to have known about this. Indeed, it could be argued that Mr R gambling from another account which he didn't provide Moneybarn access with is in itself indicative of him masking his gambling.

In reaching my conclusions, I've also considered whether the lending relationship between Moneybarn and Mr R might have been unfair to Mr 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 Mr R or otherwise treated him 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.

Overall and having carefully considered everything, while I don't think that Moneybarn's checks before entering into this conditional sale agreement with Mr R did go far enough, I'm satisfied that carrying out reasonable and proportionate checks won't have stopped Moneybarn from providing these funds, or entering into this agreement with Mr R.

So I'm satisfied that Moneybarn didn't act unfairly towards Mr R when it accepted his application and agreed to provide the funds. I appreciate that this will be very disappointing for Mr R. But I hope he'll understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 23 September 2025.

Jeshen Narayanan
Ombudsman