DRN-5574140

## Complaint

Mr L complains that Moneybarn No.1 Limited (trading as "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 September 2014, Moneybarn provided Mr L with finance for a used car. The purchase price of the vehicle was £5,823.00. Mr L paid a deposit of £200 and entered into a 60-month conditional sale agreement with Moneybarn for the remaining £5,623.00 he required to complete his purchase. The loan had interest, fees and total charges of £5,380.50 and the balance to be repaid of £11,003.50 (which does not include Mr L's deposit) was due to be repaid in 59 monthly instalments of £186.50.

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

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

Mr L 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 L's complaint.

Having carefully thought about everything I've been provided with, I'm not upholding Mr L'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 a for a lender to decide which checks it wishes to carry out, although we can form a view on whether we think what 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 meant that a complaint should be upheld.

We would usually only go on to uphold a complaint in circumstances were 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 L's complaint.

Moneybarn says it agreed to this application after Mr L provided details of his monthly income. It says it also carried out credit searches on Mr L which did show what it considered to be historic defaults but that Mr L had no County Court Judgments ("CCJ") recorded against him.

In its view, when reasonable repayments to the total amount Mr L owed plus a reasonable amount for Mr L's living expenses were deducted from his monthly income the monthly payments were still affordable. On the other hand, Mr L 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 L and Moneybarn have said.

The first thing for me to say is that I don't think that the checks Moneybarn carried out did go far enough. I don't think it was reasonable to rely on an estimate of Mr L's living costs given the adverse information on the credit checks. As this is the case, I'm not persuaded that the checks Moneybarn carried out, were reasonable and proportionate.

As Moneybarn didn't carry out sufficient checks, I've gone on to decide what I think it is more likely than not to have seen had it obtained further information from Mr L. Bearing in mind, the length of time of the agreement and the amount of the monthly payment, I would have expected Moneybarn to have had a reasonable understanding about Mr L's regular living expenses as well as his income and existing credit commitments.

However, the information Mr L has provided to us doesn't clearly show me that his committed regular living expenses meant that the repayments to this agreement were unaffordable. I note that Mr L has said he was responsible for meeting the entire household expenditure. I've thought about what Mr L has said and I don't know whether he was responsible for all the household expenditure. Mr L has provided us with statements for a joint bank account and it's fair to say that his partner didn't have an income paid into the account. That said, I also think it's fair to say that the outgoings from this account are relatively low.

Indeed, it's not even clear to me whether all of the household expenditure was going from this account. But even if it was, when the committed non-discretionary expenditure is deducted from the income, it seems to me that there were sufficient funds left over to ensure that Mr L was able to make the monthly payments on this agreement.

I also think that it is worth keeping in mind that Mr L's most recent submissions are being made in support of a claim for compensation and any explanations he would have provided at the time are more likely to have been with a view to persuading Moneybarn to lend to him, rather than highlighting any unaffordability. I don't think that Mr L would have sought to demonstrate that the monthly payments weren't affordable in circumstances where the evidence he's provided now appears to show that he could afford them.

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

So I'm satisfied that Moneybarn didn't act unfairly towards Mr L when it accepted his application and agreed to provide the funds. I appreciate that this will be very disappointing for Mr L. 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 L's complaint.

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

Jeshen Narayanan
**Ombudsman**