

## **Complaint**

Miss L complains that Moneybarn No.1 Limited (trading as “Moneybarn”) unfairly entered into conditional sale agreement with her. She’s said that the proper checks weren’t carried out which led to her being provided with finance that was unaffordable and this led to a worsening of her position going forward.

## **Background**

In May 2018, Moneybarn provided Miss L with finance for a used car. The purchase price of the vehicle was £6,500.00. Miss L paid a deposit of £400 and entered into a 60-month conditional sale agreement with Moneybarn for the remaining £6,100.00 she required to complete her purchase. The loan had interest, fees and total charges of £8,403.38 and the balance to be repaid of £14,503.38 (which does not include Miss L’s deposit) was due to be repaid in 59 monthly instalments of £245.82.

In February 2025, Miss L complained to Moneybarn saying that the agreement was unaffordable. Moneybarn didn’t uphold the complaint. Miss L remained dissatisfied at matters and referred her complaint to our service.

When responding to our request for its file on Miss L’s complaint, Moneybarn told us that it considered Miss L had complained too late. Miss L’s complaint was subsequently considered by one of our investigators. He reached the conclusion that proportionate checks would not have shown Moneybarn that it shouldn’t have provided Miss L with the finance. So he didn’t think that Miss L’s complaint should be upheld.

Miss 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.

### *Basis for my consideration of this complaint*

There are time limits for referring a complaint to the Financial Ombudsman Service. Moneybarn has argued that Miss L’s complaint was made too late because she complained more than six years after its decision to provide the finance as well as more than three years after Miss L ought reasonably to have been aware of her cause to make this complaint.

Our investigator explained why it was reasonable to interpret Miss L’s complaint as being one alleging that the relationship between her and Moneybarn was unfair to her as described in s140A of the Consumer Credit Act 1974 (“CCA”). She also explained why this complaint about an allegedly unfair lending relationship had been made in time.

Having carefully considered everything, I've decided not to uphold Miss L's complaint. Given the reasons for this, I'm satisfied that whether Miss L's complaint about the conditional sale agreement was made in time or not has no impact on that outcome.

I'm also in agreement with the investigator that Miss L's complaint should be considered more broadly than just the lending decision. I consider this to be the case as Miss L has not only complained not about the decision to lend but has also alleged that this unfairly impacted her going forward.

I'm therefore satisfied that Miss L's complaint can therefore reasonably be interpreted as a complaint about the overall fairness of the lending relationship between her and Moneybarn. I acknowledge Moneybarn still doesn't agree we can look Miss L's complaint, but given the outcome I have reached, I do not consider it necessary for me to make any further comment, or reach any findings on these matters.

In deciding what is fair and reasonable in all the circumstances of Miss L's case, I am required to take relevant law into account. As, for the reasons I've explained above, I'm satisfied that Miss L's complaint can be reasonably interpreted as being about the fairness of the lending relationship between her and Moneybarn, relevant law in this case includes s140A, s140B and s140C of the CCA.

S140A says that a court may make an order under s140B if it determines that the relationship between the creditor (Moneybarn) and the debtor (Miss L), arising out of a credit agreement is unfair to the debtor because of one or more of the following, having regard to all matters it thinks relevant:

- any of the terms of the agreement;
- the way in which the creditor has exercised or enforced any of his rights under the agreement;
- any other thing done or not done by or on behalf of the creditor.

Case law shows that a court assesses whether a relationship is unfair at the date of the hearing, or if the credit relationship ended before then, at the date it ended. That assessment has to be performed having regard to the whole history of the relationship. S140B sets out the types of orders a court can make where a credit relationship is found to be unfair – these are wide powers, including reducing the amount owed or requiring a refund, or to do or not do any particular thing.

Given Miss L's complaint, I therefore need to think about whether Moneybarn's decision to lend to Miss L, or its later actions resulted in the lending relationship between Miss L and Moneybarn being unfair to Miss L, such that it ought to have acted to put right the unfairness – and if so whether it did enough to remove that unfairness.

Miss L's relationship with Moneybarn is therefore likely to be unfair if it didn't carry out reasonable and proportionate checks into Miss L's ability to repay in circumstances where doing so would have revealed the monthly payments to the agreement to have been unaffordable, or that it was irresponsible to lend. And if this was the case, Moneybarn didn't then somehow remove the unfairness this created.

I'll now turn to whether Moneybarn acted fairly and reasonably when entering into the conditional sale agreement with Miss L.

*What we consider when looking at complaints about irresponsible or unaffordable lending*

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 Miss L's complaint.

I think that it would be helpful for me to set out 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 it 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 a lender did enough to establish whether the repayments to an agreement were 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 Miss L's complaint.

*Was Moneybarn's decision to enter into the conditional sale agreement with Miss L fair and reasonable?*

Moneybarn says it agreed to Miss L's application after Miss L provided details of her monthly income which it verified against copies of payslips which it asked Miss L to provide. It says it also carried out credit searches on Miss L which showed that she had a county court judgment ("CCJ") recorded against her around ten months prior to this application. It was also aware that Miss L had defaulted on at least one credit commitment just over four years prior to this application.

Nonetheless, in Moneybarn's view, when reasonable repayments to the credit commitments Miss L already had are combined with estimates of her living costs and then deducted from her verified income, she had enough left over to be able to make the monthly repayments to this agreement.

On the other hand, Miss L has said that the repayments were unaffordable for her and that this caused her ongoing hardship.

I've thought about what Miss L and Moneybarn have said.

The first thing for me to say is that while I accept that Moneybarn may have carried out a credit check and verified Miss L's income, bearing in mind Miss L's adverse information, I'm not persuaded that Moneybarn's checks went far enough.

In my view, given the adverse information on the credit searches, I think that Moneybarn needed to take further steps to ascertain Miss L's actual living costs, using the information on the bank statements it obtained, rather than relying on Miss L's declarations or any estimates in order for its checks to have been proportionate here.

Moneybarn did not do this, so I'm not satisfied that its checks before lending were proportionate in this instance. At this point, given I've agreed that the checks weren't proportionate, I think that it might be helpful for me to explain that my conclusion that the Moneybarn didn't do enough to establish whether the repayments were affordable, doesn't, on its own, meant that Miss L's complaint should be upheld.

This is because we would usually only go on to uphold a complaint in circumstances where we are 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.

However, despite having been provided with sufficient opportunity to do so, Miss L hasn't provided me with evidence to show that her actual living expenses were significantly higher than the estimates that Moneybarn used. I know that Miss L has said that her circumstances were worse than what Moneybarn believed. For example, I've seen that she has referred to paying council tax, car insurance and other bills. I've also seen what she's said about borrowing funds from her mother and her sister

However, this I'm afraid that I've not seen anything to corroborate any of this. Furthermore, I also have to consider Miss L's current submissions in the context that they are being made in support of a claim for compensation. Whereas at the time of sale, at least, Miss L considered that it was an appropriate time to purchase a vehicle and she clearly wanted the car she had chosen.

In these circumstances, it's fair to say that any explanations she would have provided, in relation to the entries on her bank statements, would have been with a view to persuading Moneybarn to lend to her, rather than highlighting the monthly payments were unaffordable. With this in mind, it's difficult for me to conclude that Miss L would have said that she shouldn't have been lent to because she was borrowing funds from her mother and her sister. This is especially as any such borrowing wouldn't have shown up on the credit checks carried out either.

In these circumstances, I've not been persuaded that Moneybarn asking Miss L about her living expenses, rather than relying on assumptions or statistical data of them, would have shown it that it was unfair to enter into this conditional sale agreement with Miss L.

Overall, and based on the available evidence I don't find that the lending relationship between Miss L and Moneybarn was unfair to Miss L. I've not been persuaded that Moneybarn created unfairness in its relationship with Miss L by irresponsibly lending to her when it entered into this conditional sale agreement with her. And based on what I've seen, I don't find Moneybarn treated Miss L unfairly in any other way either.

So overall and having considered everything, while I can understand Miss L's sentiments, I'm sorry to hear about the difficulties she's had and do sympathise with them, I'm nonetheless not upholding this complaint. I appreciate that this will be very disappointing for Miss L. But I hope she'll understand the reasons for my decision and that she'll at least feel

her concerns have been listened to.

### **My final decision**

My final decision is that I'm not upholding Miss L's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 30 October 2025.

Jeshen Narayanan  
**Ombudsman**