

The complaint

With the help of a professional representative (PR), Mr P complains that Moneybarn No.1 Limited lent to him irresponsibly. For ease, I'll mainly refer to the action of the PR as being those of Mr P.

What happened

Mr P applied for and entered into a Conditional Sale Agreement with Moneybarn to acquire a used car. It was agreed on the following basis:

Date	Amount of credit	Term	Monthly repayment	Total payable
10 February 2017	£5,400	48 months	£218.82	£10284.54

On 12 February 2025, Mr P complained to Moneybarn. He said it had *“failed to carry out an adequate income and expenditure assessment”* or *“obtain any evidence such as bank statements, payslips and information from other creditors confirming income and [his] ability to pay debt”*. As a result, he said the agreement had made his financial position worse. To resolve his complaint, Mr P asked Moneybarn to refund all the interest he'd paid on the agreement along with compensatory interest on top. He asked for £100 compensation for the distress and inconvenience caused to him.

Moneybarn looked at Mr P's complaint and issued a final response letter. It said it had in fact received payslips from him and used those to verify his income. It also carried out a credit search and made reasonable considerations for his expenditure. It felt the agreement had been affordable for him and noted he'd repaid the agreement in full on time. Moneybarn didn't uphold the complaint.

Mr P didn't accept Moneybarn's response, so he referred his complaint to our service. When he did so, Moneybarn told us that it felt the complaint have been brought too late under the complaint handling rules set by the Financial Conduct Authority (FCA).

One of our investigators looked into it. She didn't agree with Moneybarn that the complaint was outside our jurisdiction as she felt it would be reasonable to consider it as being about an unfair credit relationship as described in Section 140A of the Consumer Credit Act 1974 (s.140). She said on that basis we could consider Mr P's complaint, and went on to do so.

Our investigator felt the checks carried out by Moneybarn had been reasonable and proportionate. She said she felt the decision to lend had been fair and didn't uphold Mr P's complaint.

Mr P didn't accept what our investigator said, so as there was no agreement, the complaint has been passed to me for a 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.

There are time limits for referring a complaint to the Financial Ombudsman Service, and Moneybarn thinks this complaint was referred to us too late. Our investigator explained why she didn't, as a starting point, think we could look at a complaint about the lending decision that happened more than six years before the complaint was made. But she also explained why it was reasonable to interpret the complaint as being about an unfair relationship as described in s.140, and why this complaint about an allegedly unfair lending relationship had been referred to us in time.

For the avoidance of doubt, I agree with our investigator that I have the power to look at the complaint on this basis. I think this complaint can reasonably be considered as being about an unfair relationship as Mr P says the agreement simply made his situation worse as he couldn't afford it. This may have made the relationship unfair as he had to pay more in interest than he could afford and was unable to meet the repayments. I acknowledge Moneybarn still doesn't agree we can look at this complaint, but as I don't think it should be upheld, I don't intend to comment on this further.

In deciding what is fair and reasonable I am required to take relevant law into account. Because Mr P's complaint can be reasonably interpreted as being about the fairness of his relationship with Moneybarn, relevant law in this case includes s.140A, s.140B and s.140C of the Consumer Credit Act 1974.

S.140A says that a court may make an order under s.140B if it determines that the relationship between the creditor (Moneybarn) and the debtor (Mr P), 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.

S.140B 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 what Mr P has complained about, I need to consider whether Moneybarn's decision to lend to him, or its later actions, created unfairness in the relationship between him and Moneybarn such that it ought to have acted to put right the unfairness – and if so whether it did enough to remove that unfairness.

Mr P's relationship with Moneybarn is therefore likely to be unfair if it didn't carry out proportionate affordability checks and doing so would have revealed its lending to be irresponsible or unaffordable, and if it didn't then remove the unfairness this created somehow.

I think there are key questions I need to consider in order to decide what is fair and reasonable in the circumstances of this complaint:

- Did Moneybarn carry out reasonable and proportionate checks to satisfy itself that Mr P was in a position to sustainably repay the credit?
- If not, what would reasonable and proportionate checks have shown at the time?
- Did Moneybarn make a fair lending decision?
- Did Moneybarn act unfairly or unreasonably towards Mr P in some other way?

Moneybarn had to carry out reasonable and proportionate checks to satisfy itself that Mr P would be able to repay the credit sustainably. It's not about Moneybarn assessing the likelihood of it being repaid, but it had to consider the impact of the repayments on him.

There is no set list of checks that it had to do, but it could take into account several different things such as the amount and length of the credit, the amount of the monthly repayments and the overall circumstances of the borrower.

When he applied for the finance, Mr P declared a net monthly income of £1,501. Moneybarn obtained a payslip from him to verify his income and was satisfied the income quoted was in line with the nature of his employment. The payslip showed £1,568 including a bonus of £100, so the figure he declared appears reasonable.

Moneybarn conducted a credit search which showed Mr P had no active credit elsewhere, although he did have some defaults and a County Court Judgment (CCJ) registered against him. The CCJ had been recorded 54 months prior to his application. There were four defaults totalling £1,800. The balance was reducing on those, and the most recent one had been recorded 35 months prior to the application.

Based on the information it had about Mr P, Moneybarn felt a repayment of £219 would be affordable for him and I can understand why. He had no active credit elsewhere and while he'd had some issues with credit previously, they appeared to be three years in the past. Moneybarn specialises in lending to customers who have impaired credit ratings, so I would not have expected it to have any concerns about issues from so long ago.

Overall, I'm satisfied that the checks Moneybarn carried out were reasonable and proportionate. It follows that I think it reached a fair decision to lend to Mr P.

Did Moneybarn act unfairly or unreasonably towards Mr P in some other way?

I've carefully considered all the information provided by each party to the complaint and have read the contact notes provided by Moneybarn. Having done so, I note that Mr P did occasionally contact it about problems paying, but he said this was because he was out of work, and later, a health issue and the Covid-19 pandemic. Moneybarn reduced his payments substantially during these periods showing the kind of forbearance I'd expect.

Mr P ultimately made up the arrears and repaid the finance in full on time. I've seen nothing which suggests that Moneybarn treated Mr P unfairly in some other way.

For the reasons I've already given, I don't think Moneybarn) lent irresponsibly to Mr P or otherwise treated him unfairly in relation to this matter.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 15 December 2025.

Richard Hale
Ombudsman