

The complaint

With the help of a professional representative (PR) Mrs B and Mr I complain that Moneybarn No.1 Limited trading as Moneybarn lent to them irresponsibly. For ease I'll mainly refer to the actions of the PR as being those of Mrs B and Mr I.

What happened

On 24 December 2014, Mrs B and Mr I entered into a conditional sale agreement with Moneybarn to acquire a used car. It was agreed on the following terms:

Date	Amount of credit	Term	Monthly repayment	Total payable
24 December 2014	£10,195	60 months	£315.25	£18,699.75

The agreement was paid in full on 23 November 2018.

On 10 July 2024, Mrs B and Mr I's PR submitted a complaint to Moneybarn. They said it had failed to carry out a suitable creditworthiness and affordability assessment and also "*failed to obtain any evidence such as bank statements, payslips...*" as part of that. They said the agreement only made "*their client's financial position worse*" and asked that Moneybarn refund all the charges and interest paid on the agreement, along with compensatory interest. They asked for £100 compensation for the distress and inconvenience caused.

I don't have a copy of a final response from Moneybarn that deals with this issue, but the complaint form Mrs B and Mr I completed shows they received one, so I'm satisfied one was sent. I note that in the complaint form Mrs B and Mr I directly contradict their PR by saying that Moneybarn asked for "*income, wage slips and bank statements*".

Mrs B and Mr I were unhappy with Moneybarn's response to the complaint, so they referred it to our service. One of our investigators looked into it. She felt the complaint could reasonably be considered as being about the fairness of Mrs B and Mr I's relationship as described in Section 140A of the Consumer Credit Act 1974 (s.140) and went on to do so. Ultimately she didn't think Moneybarn had treated Mrs B and Mr I unfairly when it agreed to lend to them.

Mrs B and Mr I didn't accept our investigator's response. Their PR questioned the level of income used as well as the expenditure figures. 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 he didn't, as a starting point, think we could look at a complaint about the lending decisions

that happened more than six years before the complaint was made. But he 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 Mrs B and Mr I say the agreement simply made their situation worse. It may have made the relationship unfair as they had to pay more than they could afford. 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 Mrs B and Mr I's complaint can be reasonably interpreted as being about the fairness of her 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 (Mrs B and Mr I), 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 Mrs B and Mr I have complained about, I need to consider whether Moneybarn's decision to lend to them, or its later actions, created unfairness in the relationship between them 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.

Mrs B and Mr I'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 Mrs B and Mr I were 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 Mrs B and Mr I in some other way?

Moneybarn had to carry out reasonable and proportionate checks to satisfy itself that Mrs B and Mr I 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 them.

The rules around checks lenders must carry out are set out in the Consumer Credit sourcebook (CONC), specifically (at the time) CONC 5.2. Moneybarn had to carry out a creditworthiness assessment which would normally include some kind of assessment of income and expenditure (which can include estimates) as well as information from a credit reference agency.

Mrs B and Mr I have confirmed they recall the business requesting wage slips and bank statements. Mr I has said the application was initially refused due to his poor financial history so Mrs B had to be added to the agreement. He says he *"really needed a vehicle for work ... [as his] ... prior car had broken down"*. I find his testimony to be persuasive and more so than that of his PR as their comments around the level of checks appears to be standard text and are not supported by the evidence provided.

Moneybarn has provided copies of the wage slips it received from Mr I at the time. These show he earned an average of £400 net per week which equates to £1,700 per month. Moneybarn noted Mr I lived in rented accommodation and was married. It calculated his committed expenditure as £880 per month, and payments to creditors (including this agreement) as £365. This left a net disposable income of around £455.

Unfortunately I don't have details of the data Moneybarn obtained from Mrs B and Mr I's credit reports due to the time elapsed. And an up to date credit report would be of little value as they tend to only show data for the last six years and this agreement was taken out 11 years before the complaint was raised. But in any event, it's evident from what Mr I has said, that his credit report at least was reviewed, so I think on balance, it's more likely than not that Mrs B's will have been checked too.

Moneybarn is a lender which *"specialises in providing vehicle finance for customers who may not be able to obtain it from banks and other mainstream lenders because of their credit history"*. So with that in mind, Moneybarn is likely to have expected to see some adverse information between Mrs B and Mr I's credit reports, but it must've been satisfied that the joint application met its criteria to lend.

As the application appeared affordable based on the information Moneybarn gathered, I've seen nothing which makes me think it treated Mrs B and Mr I unfairly when it agreed to lend to them.

Did Moneybarn act unfairly or unreasonably towards Mrs B and Mr I in some other way?

Mr I has said he was in need of a car for work, so I'm satisfied that Moneybarn was trying to facilitate that by agreeing the application. I can see there were a few occasions when Mrs B and Mr I missed payments and built arrears, and a default notice was sent in June 2016.

According to the contact notes, the previous payments had been missed due to Mr I's employer paying late, him being off work sick and changing jobs. There's no indication that they asked Moneybarn for help due to being unable to afford the repayments. Mrs B and Mr I settled the default through savings and confirmed he had started a new job. Ultimately, they repaid the agreement in full early.

Having considered all the information available to me from both parties, I've not seen anything which makes me think Moneybarn treated Mrs B and Mr I unfairly in some other

way.

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 Mrs B and Mr I to accept or reject my decision before 3 March 2026.

Richard Hale
Ombudsman