

The complaint

Mr M complains that Moneybarn No.1 Limited (Moneybarn) irresponsibly granted him a conditional sale agreement that he couldn't afford to repay.

What happened

In August 2023 Mr M acquired a vehicle financed by a conditional sale agreement from Moneybarn. Mr M was required to make a deposit of £304 and 60 monthly repayments of £563.84. The total amount repayable under the agreement was £33,570.56. Mr M believes Moneybarn failed to complete adequate affordability checks. Mr M says that if it had it would've been clear the agreement wasn't affordable at the time.

Moneybarn disagreed. It said it carried out an adequate assessment which included credit file searches, verification of Mr M's income and statistical estimation of his non-discretionary expenditure. It said these searches showed Mr M had sufficient headroom to comfortably afford the loan. It also could see that Mr M had seven historic defaults, the most recent being 49 months prior to the lending decision, and there were no County Court Judgments on his file.

Our Investigator didn't recommend that the complaint should be upheld. They thought Moneybarn's checks weren't proportionate in the circumstances due to the relative size of the amount of borrowing compared to his income and existing credit balance amounts. But after performing further checks our Investigator still found that the decision to agree to lend was reasonable as the agreement appeared to be affordable.

Mr M didn't agree. He stated that his disposable income was not sufficient at the time as he was unable to pay several credit commitments only two months after taking out the agreement. Mr M asked for an Ombudsman to issue a final decision on the matter.

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.

Where evidence is incomplete, inconsistent, or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available evidence and wider circumstances.

We explain how we handle complaints about irresponsible and unaffordable lending on our website. I've used this approach to help me decide Mr M's complaint. Moneybarn needed to ensure that it didn't lend irresponsibly as per the rules set out in the FCA's Consumer Credit Sourcebook (CONC). In practice, what this means is that Moneybarn needed to carry out proportionate checks to be able to understand whether any lending was affordable for Mr M before providing it.

In this case, there are two overarching questions that I need to answer to fairly and reasonably decide Mr M's complaint. These two questions are:

1. Did Moneybarn complete reasonable and proportionate checks to satisfy itself that Mr M would be able to repay his loan without experiencing significant adverse consequences?
 - If so, did it make a fair lending decision?
 - If not, would those checks have shown that Mr M would've been able to do so?
2. Did Moneybarn act unfairly or unreasonably in some other way?

Did Moneybarn complete a reasonable and proportionate affordability check?

Moneybarn was required to ensure it carried out adequate checks on Mr M's ability to sustainably afford the agreement. These checks had to be borrower-focussed and proportionate (see CONC 5.2A). What is considered proportionate will vary depending on the circumstances, such as (but not limited to): the total amount repayable, the size of the monthly repayments, the term of the agreement (CONC 5.2A.20 R), and the consumer's specific circumstances.

Moneybarn says that Mr M's application underwent credit and underwriting checks, and these didn't raise any concerns. His income was verified, and Moneybarn also used statistical data to estimate the level of expenditure Mr M had at the time. It felt that these searches were reasonable and proportionate in this scenario.

I'm not satisfied that Moneybarn gathered a reasonable amount of information from Mr M about his expenditure prior to approving the finance. I understand Moneybarn made the decision to lend on the basis that his estimated disposable income was acceptable and that it found the risk this posed to itself as acceptable. But I'm not satisfied enough consideration was given to the personal risk posed to Mr M.

Moneybarn hasn't provided a copy of the credit file check it completed, but in its absence Mr M has provided his own credit file copy which I feel most likely depicts a fair reflection of the information that was available at the time. It also does not appear to contradict the information contained within Moneybarn's final response letter. So, at the time of the application I'm satisfied that Mr M had an active credit balance of around £21,342 and Moneybarn's systems show a verified income of £2,293. Given his existing active credit balance, and the fact that the proposed finance repayments would've accounted for around 25% of his income in isolation, I do think Moneybarn ought to have taken further consideration of Mr M's specific financial situation before approving the lending.

I want to be clear that I've considered Moneybarn's position about the number and type of checks that it did complete. And I understand that its searches attempted to approximate Mr M's disposable income. However, given the size of the lending, the monthly repayments, the length of agreement, and Mr M's existing active credit balances, I think it would have been proportionate for Moneybarn to have verified Mr M's specific expenditure. This would include costs such as food, petrol and housing. Without knowing what his regular committed expenditure was, Moneybarn couldn't have got a reasonable understanding of whether the agreement was affordable for his circumstances.

As Moneybarn don't appear to have sought a reasonable understanding of Mr M's total committed expenditure, I don't think it carried out reasonable and proportionate affordability checks before lending. I'm satisfied Moneybarn didn't complete proportionate affordability checks, but this doesn't automatically mean it failed to make a fair a lending decision.

What would proportionate checks have shown?

I've considered what Moneybarn would likely have found out if it had completed reasonable and proportionate affordability checks. I can't be certain what Mr M would have told Moneybarn had it asked about his regular expenditure. I don't think Moneybarn necessarily needed to request bank statements, but in the absence of anything else, I've placed significant weight on the information contained in Mr M's statements three months prior to the finance being approved as an indication of what would most likely have been disclosed.

These statements show that Mr M's monthly income averaged at around £1,900, which is less than Moneybarn verified. His average monthly expenditure was around £1,200. This includes credit commitments, food, and petrol. It meant Mr M was left with around £700 in disposable income. It appears the amount of disposable income allowed enough for emergency or unexpected costs even after factoring in the finance.

I appreciate Mr M feels strongly that this was not the case. He's provided testimony speaking to his issues with maintaining his regular commitments shortly after the finance was approved. But it's important to note that I'd only be able to rely on information available prior to the lending decision – it wouldn't be reasonable to expect Moneybarn to use information from after the fact. And as I'm satisfied that the bank statements provided showed that the agreement was affordable for Mr M shortly prior to approval of the agreement, I'm satisfied that it was still reasonable for Moneybarn to have approved the lending.

So, taking these figures into account, it appears to show the agreement was affordable for Mr M at the time of the lending decision. For this reason, I'm not persuaded that Moneybarn acted unfairly when approving the finance. I'm satisfied that if Moneybarn had completed proportionate checks it would have likely revealed Mr M was able to sustainably afford the repayments owed under the agreement. So, it follows that I'm satisfied Moneybarn made a fair lending decision.

Did Moneybarn act unfairly or unreasonably in some other way?

I'm not persuaded from the submissions made to date that Moneybarn acted unfairly or unreasonably in some other way.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 19 June 2024.

Paul Clarke
Ombudsman