

Complaint

Mr W complains that Moneybarn No. 1 Limited (“Moneybarn”) unfairly entered into a conditional sale agreement with him. He’s said that the payments to this agreement were unaffordable due to his existing position.

Background

In September 2017, Moneybarn provided Mr W with finance for a used car. The purchase price of the vehicle was £11,000.00. Mr W didn’t pay a deposit and took out a conditional sale agreement with Moneybarn for the entire amount required for the purchase. The loan had interest and charges of £10,338.53 and a 60-month term. This meant that the total amount to be repaid of £21,338.53 was due to be repaid in 59 monthly instalments of £361.67.

Mr W complained that the agreement was unaffordable and so should never have been provided to him. Moneybarn didn’t uphold the complaint. It said that its checks confirmed that the finance was affordable and so it was reasonable to lend.

Mr W’s complaint was considered by one of our investigators. He didn’t think that Moneybarn had done anything wrong or treated Mr W unfairly. So he didn’t recommend that Mr W’s complaint should be upheld. Mr W 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 W’s complaint.

Having carefully thought about everything I’ve been provided with, I’m not upholding Mr W’s complaint. I’d like to explain why in a little more detail.

Moneybarn needed to make sure that it didn’t lend irresponsibly. In practice, what this means is that Moneybarn needed to carry out proportionate checks to be able to understand whether any lending was sustainable for Mr W before providing it.

Our website sets out what we typically think about when deciding whether a lender’s checks were proportionate. 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.

Moneybarn says it agreed to this application after Mr W provided details of his monthly income, which it verified against copies of payslips which Mr W was asked to provide. It also carried out credit searches on Mr W, which had shown he had previously defaulted on credit approaching three years prior to this application. Furthermore, Mr W was in an Individual Voluntary Arrangement (“IVA”).

In Moneybarn’s view, when repayments to Mr W’s existing creditors plus a reasonable amount for Mr W’s living expenses were deducted from his monthly income, the monthly payments for this agreement were still affordable.

On the other hand, Mr W 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 W and Moneybarn have said.

The first thing for me to say is that I’m not persuaded that the checks Moneybarn carried out did go far enough. For example, I’m not persuaded that it was reasonable to rely on an estimate of Mr W’s living costs given what Moneybarn saw on its credit checks. And I think that this ought to have led Moneybarn to do more to verify Mr W’s actual regular living costs.

That said, I don’t think that obtaining further information on Mr W’s actual living costs would have made a difference to Moneybarn’s decision to lend in this instance. Firstly, having looked at the information Mr W has provided, I can’t obviously see that his regular monthly living costs made the payments to this agreement unaffordable.

Furthermore, I’m also mindful that Moneybarn was not only aware of Mr W’s IVA but it also contacted Mr W’s IVA practitioner. The IVA practitioner was responsible for supervising Mr W’s agreement and had an obligation to Mr W’s existing creditors. So I think that it confirming that it was content for Mr W to proceed with an agreement that had these monthly payments is also indicative of the fact that when Mr W’s regular living expenses and existing credit commitments were deducted from his monthly income, he did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

I accept it’s possible that Mr W’s actual circumstances at the time might have been worse than what I’ve seen here. I know that Moneybarn’s notes appear to indicate that Mr W went on to have some time off sick from work and had a temporary reduction in his earnings, which affected his ability to make his payments. But a lender is only able to make a decision based on what it has, or at the very least is likely to have.

I have to keep in mind that Mr W’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, rather than highlighting any unaffordability. I don’t see how Moneybarn would have known that Mr W might be off sick from work, or that this would happen – particularly as the payslips Mr W provided didn’t suggest this, nor did Mr W volunteer this information himself.

So while I’ve seen Mr W’s arguments and his response to our investigator also indicates that he may be unhappy with his IVA practitioner’s actions, I don’t think that this is reason for me to uphold this complaint.

Finally, although I accept that this is not itself determinative of the monthly payments having been affordable from the outset, nonetheless I do think that Mr W not only catching up with his missed payments but also settling the finance in full, just over six months into a 60-month repayment term, further supports everything else showing that this is the case.

Overall and having carefully considered everything, while I'm not persuaded that Moneybarn's checks before entering into this conditional sale agreement with Mr W did go far enough, I've not been provided with clear evidence that carrying out reasonable and proportionate checks would have stopped Moneybarn from providing these funds, or entering into this agreement with him.

As this is the case, I don't think that Moneybarn acted unfairly or unreasonably towards Mr W. So I'm not upholding this complaint. I appreciate that this will be disappointing for Mr W. But I hope he'll understand the reasons for my decision and at least consider that his concerns have been listened to.

My final decision

My final decision is that I'm not upholding Mr W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 8 July 2024.

Jeshen Narayanan
Ombudsman