DRN-4814221

The complaint

Miss S is complaining about Moneybarn No.1 Limited (Moneybarn). She says they were irresponsible in lending to her as the loan was unaffordable. A representative has raised the complaint on Miss S's behalf but for ease I've written as if we've dealt directly with her.

What happened

In May 2021, Miss S took out a conditional sale agreement with Moneybarn to finance the purchase of a car. She paid a deposit of £4,800 and borrowed £13,690 – the cash price of the vehicle was £18,490. The agreement required Miss S to make 59 monthly repayments of £429.67. Miss S initially made her payments on time but started to miss payments from around April 2022 onwards.

In November 2023, Miss S complained to Moneybarn, saying they shouldn't have lent to her. She said they hadn't carried out sufficient checks when assessing whether the agreement was affordable for her.

In their response, Moneybarn said they had carried out a credit search before lending to Miss S. They said they could see she'd previously defaulted on other accounts but the most recent of these was 11 months prior to her application and she was making contributions towards the sums owed. They also said they'd verified her monthly income using a Credit Reference Agency (CRA) and calculated her non-discretionary expenditure as around £845 per month, concluding that the repayments would be affordable for her. So they didn't uphold her complaint.

Miss S was unhappy so brought her complaint to our service. In doing so, she said she had several adverse markers on her credit file at the time of the lending decision. And she said her income was lower than the amount Moneybarn said they'd verified. She also said her regular spending amounted to around £1,900 - £2,000 per month at the time so she'd have had negative disposable income when taking into account the new agreement.

One of our investigators looked into things but didn't uphold the complaint. She said she didn't think Moneybarn had done proportionate checks but if they had, they could have fairly decided to lend to Miss S.

Miss S disagreed, saying this wasn't a fair assessment when our investigator hadn't looked at the bank statements for the account from which she paid her rent. She asked for a decision and the complaint's come to me.

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.

Having done so, and acknowledging it'll be disappointing for Miss S, I'm not upholding her complaint for broadly the same reasons as our investigator - I'll explain more below.

The Financial Conduct Authority (FCA) sets out in a part of its handbook known as CONC what lenders must do when deciding whether or not to lend to a consumer. In summary, a firm must consider a customer's ability to make repayments under the agreement without having to borrow further to meet repayments or default on other obligations, and without the repayments having a significant adverse impact on the customer's financial situation.

CONC says a firm must carry out checks which are proportionate to the individual circumstances of each case.

Did Moneybarn carry out proportionate checks?

Moneybarn said they conducted a full credit search and checked Miss S's income using a CRA tool. They also said they estimated Miss S's monthly expenditure as around £845 including payments to creditors. It's not completely clear how they arrived at these figures, but it seems likely Moneybarn used statistical data about average expenditure to estimate Miss S's spending.

Whether or not these checks were proportionate depends on various factors, including the size and length of the loan, and what Moneybarn found. The agreement required Miss S to pay Moneybarn over £30,000 over five years, so my starting point is that the checks needed to be thorough.

The credit report shows Miss S had defaulted on five accounts in the 25 months prior to her application. Although three of these had been satisfied, two were still outstanding, and the most recent was defaulted only eleven months prior to this lending decision. The credit report also showed Miss S was two months in arrears on a telecoms account at the time of her application to Moneybarn, and had missed a number of payments on a utilities account around a year prior.

Despite the size of the loan and the negative information they found on Miss S's credit card Moneybarn didn't take any additional steps to understand Miss S's income and expenditure. So I can't say they carried out proportionate checks.

If Moneybarn had done proportionate checks, what would they have found?

Proportionate checks would have involved Moneybarn finding out more about Miss S's income and expenditure to determine whether she'd be able to make the repayments in a sustainable way.

I've looked at Miss S's bank statements for two of her accounts for the three months leading up to her application to Moneybarn. I'm not saying Moneybarn needed to obtain bank statements as part of their lending checks. But in the absence of other information from the time, bank statements provide a good indication of Miss S's financial circumstances at the time the lending decision was made.

The bank statements show that Miss S's net income from her employment was a little lower than Moneybarn had verified – around £2,135 per month rather than £2,345. There were other receipts into her bank account which is likely what allowed Moneybarn to automatically verify her income – but these amounts were ad-hoc rather than regular, so I wouldn't have expected Moneybarn to include them in an affordability assessment.

Turning to Miss S's expenditure, the bank statements show Miss S was paying £188 per month for a joint second mortgage, and £312 per month for another credit agreement. This latter agreement doesn't appear on Miss S's credit file, so it's possible she was making these payments on someone else's behalf. Miss S's copy of her credit file does show she was party to another mortgage, but I've seen no evidence she was making payments towards that one so I can't say Moneybarn should have factored it into their assessment.

I've also seen no evidence that Miss S was paying council tax or for utilities. It's clear she was co-habiting at the time, and I'm satisfied it's likely the financial arrangements she had with her partner are what's reflected in her bank statements. So I'm satisfied this likely reflects what she would have told Moneybarn had they asked Miss S about her expenditure before deciding to lend to her.

The bank statements show Miss S was paying around £225 per month to debt collectors, around £58 per month for insurance, around £110 for TV and music subscriptions, and around £400 per month for food, fuel and other transport costs. I've also looked at transfers between the accounts we have statements for and accounts we don't have statements for (which appear to be joint accounts). The net amount is around £100 per month going out. From everything I've seen, I think it's likely this was Miss S's net contribution to other household expenses. In addition, Miss S's credit file suggests she should also have been paying around £90 per month for her phone. So in total I'm satisfied her monthly non-discretionary and committed expenditure came to around £1,483.

Miss S had income of around £2,135 per month. Deducting the £1,483 existing expenditure and the £430 that she needed to pay Moneybarn each month would have left well over £200 per month to cover emergency and discretionary expenditure. I'm therefore satisfied that if Moneybarn had done proportionate checks they could have fairly concluded that the loan repayments would be affordable for Miss S.

I appreciate that this will be disappointing for Miss S, and the repayments probably don't seem affordable for her now. Looking at everything together, it appears Miss S's circumstances have changed significantly since she entered into the conditional sale agreement – she moved house and has had periods of unemployment for example. It's likely these have been significant contributing factors towards Miss S's difficulties in paying the agreement. But I can't say that these changes should have been reasonably foreseeable for Moneybarn, so I can't take them into account in deciding whether or not Moneybarn should have lent to her in the first place.

Have Moneybarn acted unfairly in any other way?

Other than a very brief mention in her original letter of complaint to Moneybarn, Miss S hasn't suggested that Moneybarn have treated her unfairly in any other way. I've reviewed Moneybarn's system notes and I can see they've arranged payment plans and offered Miss S exit options. I haven't seen anything to suggest Moneybarn haven't complied with the requirements under CONC 7 to treat Miss S with forbearance and due consideration.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974.

However, for the reasons I've already given, I don't think Moneybarn lent irresponsibly to Miss S or otherwise treated her unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

My final decision

As I've explained above, I'm not upholding Miss S's complaint about Moneybarn No. 1 Limited. Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 30 July 2024.

Clare King
Ombudsman