

## **Complaint**

Miss W complains that Moneybarn No.1 Ltd (“Moneybarn”) unfairly entered into a conditional-sale agreement with her. She’s said the agreement was unaffordable for her.

## **Background**

In June 2022, Moneybarn provided Miss W with finance for a used car. The cash price of the vehicle was £9,500.00. Miss W paid a deposit of £750 and entered into a 51-month conditional sale agreement with Moneybarn for the remaining amount she needed for the purchase.

The amount borrowed was £8,750.00, the loan had interest, fees and total charges of £7,732.50 and the total amount to be repaid of £16,482.50 (not including Miss W’s deposit) was due to be repaid in 50 monthly instalments of £329.65.

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

Miss W disagreed with our investigator’s assessment and asked for her complaint to be 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 Miss W’s complaint.

Having carefully thought about everything I’ve been provided with, I’m not upholding Miss 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 Miss W could make her payments in a sustainable manner before agreeing to lend to her. And if the checks Moneybarn carried out weren’t sufficient, I then need to consider what reasonable and proportionate checks are likely to have shown.

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 it completed an income and expenditure assessment on Miss W. During this assessment, Miss W provided details of her monthly income which it verified against copies of payslips and benefit statements that Miss W was asked to provide.

Moneybarn says it also carried out credit searches on Miss W which showed that she had previously defaulted on credit commitments, but the most recent occasion this happened was almost three years prior to this application. Furthermore, Miss W had no County Court Judgments ("CCJ") recorded against her.

In Moneybarn's view, when reasonable repayments to the amount Miss W already owed plus a reasonable amount for Miss W's living expenses was deducted from her monthly income the monthly payments were still affordable. On the other hand, Miss W says she was already struggling at the time and that these payments were unaffordable.

I've thought about what Miss W and Moneybarn have said.

The first thing for me to say is that bearing in mind the term of the agreement and its total cost, I'm satisfied that Moneybarn needed to take further steps to ascertain Miss W's actual living costs, rather than assuming Miss W's living expenses in order for its checks to have been proportionate here. Moneybarn did not do this, so I'm satisfied that its checks before lending in this instance weren't proportionate.

As Moneybarn should have done more, I've gone on to decide what I think Moneybarn is more likely than not to have seen had it done that here. Given the circumstances here, I would have expected Moneybarn to have had a reasonable understanding about Miss W's regular living expenses as well as her income and existing credit commitments.

I've considered the information Miss W has provided us with. Having done so, I'm satisfied that while Miss W has provided statements for more than one account, the information provided appears to show that when Miss W's committed regular living expenses are combined with her credit commitments and then deducted from the amount she was receiving at the time, which was verified, she did have sufficient funds left over to make the payments to this agreement.

I accept that Miss W says that she wasn't paying her bills at this time and that's the reason why we're able to see that she was mostly making discretionary transactions rather than seeing what she was required to pay. But as I'm not in a position to discern what Miss W was required to pay from her bank statements and Miss W was choosing to make discretionary transactions ahead of making her payments, it's difficult for me to say that Moneybarn ought to have known about this. I say this particularly as the bills Miss W says she wasn't paying hadn't at that point resulted in more recent significant adverse credit information being recorded against her, which would have been picked up in Moneybarn's credit check either.

So overall and having carefully considered everything, while I don't think that Moneybarn's checks before entering into this conditional-sale agreement with Miss W did go far enough, I'm satisfied that doing more won't have prevented Moneybarn from providing these funds, or entering into this agreement with her.

In reaching my conclusions, I've also considered whether the lending relationship between Moneybarn and Miss W might have been unfair to Miss W under section 140A of the Consumer Credit Act 1974 ("CCA").

However, for the reasons I've explained, I don't think Moneybarn irresponsibly lent to Miss W or otherwise treated her unfairly in relation to this matter. And I haven't seen anything to suggest that section 140A CCA or anything else would, given the facts of this complaint, lead to a different outcome here. So I'm not upholding this complaint.

I appreciate that this will be very disappointing for Miss W. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

Although I'm not upholding Miss W's complaint, I would remind Moneybarn of its continuing obligation to exercise forbearance and due consideration, given what Miss W has said about having difficulty making her payments.

I would also encourage Miss W to get in contact with and co-operate with any steps that may be needed to review what she is able to repay going forward. Miss W may be able to complain to us – subject to any jurisdiction concerns – should she be unhappy with Moneybarn's actions in relation to exercising forbearance over the remainder of the agreement.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 30 September 2024.

Jeshen Narayanan  
**Ombudsman**