

The complaint

Miss J is complaining about Secure Trust Bank PLC trading as Moneyway. She says they were irresponsible in lending to her. Miss J's complaint was brought to our service by a representative but for ease I've written as if we've dealt directly with her.

What happened

In January 2019, Miss J took out a hire purchase agreement with Moneyway to finance the purchase of a car. She borrowed £12,000, which was the cash price of the vehicle. The agreement required Miss J to make 59 monthly repayments of £338.50 and a final instalment of £348.50 – so the total amount payable was £20,320. Miss J looked to settle the agreement early on several occasions and ultimately did so in September 2022.

In September 2022, Miss J complained to Moneyway, saying they hadn't conducted thorough, appropriate and reasonable checks when deciding to lend to her. She said the level of borrowing she took out around the time of the agreement reflected her dependence on borrowing.

Moneyway didn't uphold Miss J's complaint. They said Miss J had told them her monthly income was £1,471. They'd used her credit file to assess the amount she paid towards debts and revolving credit, and used statistical data from the Office for National Statistics (ONS) to estimate her cost of living including rent. This was based on Miss J being a single council tenant – which is what she'd told Moneyway.

When they added up Miss J's estimated expenditure, including the proposed repayments under this agreement, the total was around £1,278 per month. As this was less than Miss J's income, they concluded that the finance was affordable for Miss J. Moneyway also said they'd used one of the credit reference agency (CRA) tools to check that Miss J's income was higher than her expenditure.

Moneyway added that many of Miss J's payments were ahead of schedule which led to the agreement being settled 15 months early.

Miss J was unhappy with Moneyway's response so brought her complaint to our service. One of our investigators looked into it but didn't uphold it. He said from the evidence he'd seen, he thought Moneyway had probably conducted reasonable and proportionate checks and made a fair lending decision. He added that he'd looked at the bank statements provided to us by Miss J and these didn't suggest Miss J was struggling financially. In summary, he said the evidence he'd reviewed suggested the repayments were affordable for Miss J.

Miss J replied, saying she had contractual debt of over £10,000 at the time of taking the lending and had had three late payments on her water bills in the six months prior to borrowing. And she said she'd opened three new credit accounts in the six months prior to borrowing which showed her dependence on credit. She said looking at her bank statements, her expenditure was higher than her income and the loan was therefore unaffordable. Because Miss J disagreed with our investigator, the complaint was referred for a decision – and it'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 recognising it'll be disappointing for Miss J, I'm not upholding her complaint. My reasons are broadly the same as our investigator's – I'll explain 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 Moneyway carry out proportionate checks?

Moneyway said they carried out the following checks:

- reviewed Miss J's credit file;
- used ONS data to estimate Miss J's expenditure; and
- used one of the CRA tools to check that Miss J's income exceeded her expenditure.

Whether or not these checks were proportionate depends on various factors, including the size and length of the loan, and the cost of credit. Miss J was largely dependent on benefits, and the repayments on the hire purchase agreement were around 23% of her stated income. So the checks needed to be thorough.

Moneyway said Miss J's credit file didn't give them any cause for concern. And they used the information contained within the credit file to determine that Miss J needed to pay £18 per month against unsecured loans and around £12 per month against her credit cards. I've looked at the credit report Moneyway used and I can understand why this didn't give them cause for concern. And I can see where they got the repayment figures from – as well as the loan repayments shown on the credit file they calculated 3% of Miss J's credit card balance and used this as an estimate of what she'd need to pay.

I appreciate Miss J said she had debt of around £10,000 at the time of the lending – much higher than is shown on the credit report Moneyway looked at. I can see the main difference was an existing car finance agreement that Miss J says she'd taken on around six months before this one. I've not seen any evidence relating to this car finance agreement, or Miss J's copy of her credit file. Similarly, I haven't seen evidence of the late payments on water bills that Miss J mentioned. And I can't say Moneyway should have been aware of something that wasn't reported by the CRA they used.

I can see from Moneyway's credit report that Miss J opened three credit accounts in the six months before entering into this agreement, as she mentioned in response to our investigator's view. But at the time of the lending, one had a zero balance, another would be paid off imminently, and the third was a modest unsecured loan with monthly repayments of £18. I wouldn't consider these to be an indicator that Miss J was dependent on credit.

CONC allows firms to use statistical data in their affordability assessments unless they have reason to suspect that a customer's non-discretionary expenditure is significantly higher than that described in the data. I don't think Miss J's credit file gave Moneyway a reason to think

Miss J's expenditure differed significantly from the average. And I haven't seen anything else in the information Moneyway had at the time to suggest ONS data might not have been appropriate for Miss J.

CONC also says that firms shouldn't rely solely on a statement from a customer to verify a customer's income. Moneyway said they used a CRA tool to check that Miss J's income exceeded her expenditure but it's not clear whether they used the CRA tool to verify the amount of her income or simply used the income figure Miss J had given them. That makes it difficult for me to say Moneyway did proportionate checks – I can't see that they verified her income and I think proportionate checks needed to include this step.

If Moneyway had carried out proportionate checks, what would they have found?

As I've explained above, I think Moneyway should have independently verified Miss J's income using some third-party information, for example bank statements, benefit statements or a CRA tool.

However, if they had done, I'm satisfied they'd likely have found Miss J's income was at least the £1,471 she'd told Moneyway she received. I say this because I looked at Miss J's bank statement for October 2018 and Miss J received around £1,700 in benefits that month.

This figure was significantly higher than Miss J's stated income and significantly higher than the expenditure Moneyway had estimated – so I'm satisfied they could have fairly decided to lend to Miss J. I haven't carried out an analysis of Miss J's expenditure because, as I've explained above, I think it was reasonable for Moneyway to use ONS figures.

In conclusion, although on balance I'm not satisfied Moneyway did proportionate checks, I'm satisfied that if they had, they could have fairly lent to Miss J.

My final decision

As I've explained above, I'm not upholding Miss J's complaint about Secure Trust Bank PLC trading as Moneyway.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 1 November 2023.

Clare King
Ombudsman