DRN-1397985

The complaint

Mr J is unhappy that a car he financed through Moneybarn No.1 Limited (Moneybarn), was of an unsatisfactory quality.

What happened

On 1 May 2019, Mr J was supplied a used car through a conditional sale agreement with Moneybarn. At the time of supply, the car was just over 3 years old and had done 78,875 miles. On 31 July 2019 Mr J complained to Moneybarn that there were faults with the car – he said there were issues with the turbos, there was oil in the intercooler and the diesel particulate filter needed recharging.

Moneybarn arranged for an independent engineer to inspect the car. This inspection took place on 5 August 2019 and the engineer said that the likely cause was wear and tear because of the mileage the car had done. But the engineer said the turbos would need removing and a further inspection taking place. Moneybarn offered to cover the costs of this. Alternatively they offered Mr J £288 towards the costs of any repairs.

Mr J accepted the offer of the money in resolution to his complaint, and had the turbos repaired. But he was still having problems with the engine. The independent engineer inspected the car again on 13 September 2019. He concluded that there were faults with Mr J's car which wouldn't have been present when the finance started.

Mr J has complained that the car's engine had gone wrong three months after he purchased it. Our investigator said Mr J had bought a used car which had done a significant amount of mileage. So it would be expected to have parts that'd need replacing much quicker than on a brand-new car. He said the independent engineer had said the faults wouldn't have been present at the time the finance started. And the three companies who'd been involved in the repairs to Mr J's car couldn't say that the faults were present, or developing, at the time Mr J took possession of the car.

So the investigator said he didn't think Moneybarn needed to do anything more. Mr J didn't agree with the investigator and he's asked for an ombudsman to make a final decision. Mr J has also said he's raised a complaint through a solicitor about commission, by my decision will only address the issues Mr J originally brought to the Financial Ombudsman Service.

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. In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time.

Mr J bought his car under a conditional sale agreement. This is a regulated consumer credit agreement which means we're able to look into complaints about it. Moneybarn is also the supplier of the goods under this type of agreement.

The relevant law says, amongst other things, that the car should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of goods, Moneybarn are responsible. Goods are considered to be satisfactory if they meet the standard that 'a reasonable person would consider them satisfactory, taking into account any description of the goods, their price and all other relevant circumstances'.

In a case like this, the 'other relevant circumstances' I might consider relevant would include things like the age and mileage at the time of sale; and the vehicle's history. The quality of the goods also includes their general state and condition; and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability. Durability means that the components within the car must last a reasonable amount of time.

So, if I thought the car was faulty when Mr J bought it, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask Moneybarn to put this right.

When Mr J took possession of the car, it was around 3 years old and had done 78,875 miles. I'd expect to see wear and tear in a vehicle of that age and mileage, especially as the car had done significantly more than average mileage. There's no dispute that there were some issues with the car's engine. But what I need to consider is whether those faults, and the repairs Mr J's car needed meant the car was not of a satisfactory quality when it was supplied to Mr J.

I've seen a copy of the independent engineer's report carried out on 5 August 2019, when the car had done 84,375 miles. The report said there was wear and tear in the turbos, which was to be expected given the high mileage. But the engineer couldn't conclude whether the faults had been present when Mr J purchased the car without the turbos being removed and a further inspection taking place. Mr J chose to take cash-in-lieu of this inspection and he arranged to have the turbos repaired himself.

I've also seen a copy of the independent engineer's report carried out on 13 September 2019. This report says *"after the repair to the turbos further engine issues were found that requires a new engine to be installed."* The engineer said *"the current faults are on the balance of probability related to the previous turbo charger faults, where the oil was bypassed and caused oil starvation."*

The engineer also said that engine wear related faults can occur within a wide mileage window but *"above 80,000 miles a primary factor is just normal deterioration."* In other words it was reasonably possible that the part that failed on Mr J's car could be as a result of wear and tear at that mileage.

In conclusion, the engineer said *"the current faults would not have been present since finance inception."* Mr J had his engine repaired in October 2019 at the cost of £3,138.

The investigator contacted the three garages who'd inspected and repaired Mr J's car. He asked them if the faults with the turbo would've been present when Mr J took possession of the car. One of them said 'definitely not', while the other two couldn't say.

Mr J bought a high mileage car, and despite its relatively young age, it's reasonable to expect there to be a certain amount of mileage related wear and tear. So he would also expect major components to need replacing much sooner than with a low mileage car, and for there to be costs associated with this.

It’s unfortunate for Mr J that his car developed a problem with the turbos, which led to further engine damage. But all the evidence I’ve seen says this wasn’t present when Mr J took possession of the car. So the faults must’ve developed in the 5,500 miles the car was driven between 1 May 2019 and 5 August 2019. And, given the high mileage the car had already done before this, the need to have to replace worn out engine components would’ve been reasonably expected.

Because of this, I don’t agree that Moneybarn are responsible for the costs of repairing Mr J’s car, nor do I think they should take the car back and unwind the finance agreement. Mr J’s car was of a satisfactory quality when supplied, considering all the relevant circumstances.

My final decision

For the reasons explained above I don’t uphold Mr J’s complaint against Moneybarn No.1 Limited.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr J to accept or reject my decision before 24 August2020.

Andrew Burford
Ombudsman