

The complaint

Miss W has complained about the actions of Moneybarn No.1 Limited (“Moneybarn”) when a car she was paying for under a conditional sale agreement developed a fault.

Miss W has brought her complaint to this Service through a representative but, for simplicity, I will refer to her throughout.

What happened

Moneybarn agreed a loan of £9,180 for Miss W on 16 November 2018 via an intermediary. The total amount owed (excluding a deposit of £319 paid to the dealership which sold the car) came to £18,076 which was to be repaid over 59 instalments of £301¹.

The loan was granted under a conditional sale agreement meaning Miss W would own the car once the loan had been repaid. Moneybarn was the owner until that point and Miss W was, in essence, paying for the use of it. Any complaints about the quality of the car as given to Miss W then falls to Moneybarn.

It seems the car displayed a warning light at the point of sale. This was investigated in January 2019 by the dealership that sold the car to Moneybarn. The dealership confirmed that it originally thought the repair would involve a software update but it turned out to be more complicated than that. It found that repair would involve replacement of a wiring harness.

The car wasn’t booked in for this repair until August 2019. I understand from Miss W that that was the earliest date convenient for her. Miss W was without the use of the car then for the time it was with the dealership, in other words from mid-August 2019.

Miss W complained to Moneybarn in early September because of the length of time it was taking to repair the car. In mid-November, having failed to sort the matter out, Moneybarn decided to end the agreement. Moneybarn explained that the car had been sent to a specialist repairer and, at some point during the repair process, failed to start. Both it and the dealership accepted that the car had been faulty from the outset and was now unusable.

I understand Miss W had received a refund of her deposit from the dealership. Moneybarn proposed to refund the payments Miss W made during the time she was without the car (from August 2019 onwards). It said she made eleven payments altogether and it offered to refund three. Moneybarn also offered to pay her £250 for any inconvenience caused and would consider a refund of any out-of-pocket expenses Miss W had to pay during that time.

It seems both parties agree about what happened but Miss W says that Moneybarn’s offer isn’t sufficient compensation - she doesn’t feel that Moneybarn should be able to keep any of her monthly payments as the car was faulty from the outset. She also said that it doesn’t feel fair to her that Moneybarn has profited from the matter - it charged her interest on her loan and would potentially be able to recoup the money it paid for the car from the dealership.

¹ All figures quoted are rounded to the nearest pound.

Miss W explained that due to her circumstances she relied on her car and her mental health has suffered because of the stress this matter has caused.

One of our investigators has looked into Miss W's complaint and found that Moneybarn's offer was fair as Miss W had been able to use the car until it went to the dealership for investigation and had driven it approximately 6,000 miles. She didn't recommend that Moneybarn should pay any more than it had offered. Miss W disagreed and asked for her complaint to come to an ombudsman to review and resolve.

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.

I have also taken into account the law, any relevant regulatory rules and good industry practice at the time.

As the facts of the case aren't in dispute I won't go into what happened in any more detail. It seems to me there are two aspects that Miss W is unhappy about – that Moneybarn keeps her repayments from the time she was able to use the car and the level of compensation offered to acknowledge the distress and inconvenience the matter caused.

Having considered everything, I've concluded that the offer made by Moneybarn is a fair one and so, although I am upholding Miss W's complaint, I am not asking it to pay any more compensation. I appreciate this will be very disappointing for Miss W and I hope my explanation below makes it clear why I have come to this conclusion.

As mentioned, Moneybarn was the owner of the car. The finance agreement states that the car would not become Miss W's property until she'd made all the payments. Miss W paid each month for the use of the car, knowing that it would become her property at the end of the agreement, assuming all payments were made. In the meantime she was, in effect, renting the car from Moneybarn.

Moneybarn was obliged under The Consumer Rights Act 2015 (CRA) to ensure that the quality of the car was satisfactory, in other words that it was of a standard a reasonable person would feel was satisfactory or as expected taking into account factors such as the car's age, the mileage, the price it was sold at etc. It is not in dispute that the fault existed prior to Miss W taking possession of the car. Miss W was therefore supplied with a car that wasn't of satisfactory quality. However, it doesn't seem that the issue limited or impaired Miss W's use of the car prior to August 2019. So I can't say that she was unable to make fair use of the car for the time it was in her possession.

Miss W says that she didn't know she could complain to Moneybarn about the quality of the car and only got in touch with it when the dealership took longer than she expected to repair it. But, she's also said that she didn't leave the car in for repair until August because it wasn't convenient for her until then, so I don't think she would have made fewer payments had she been in touch with Moneybarn any earlier. I understand Miss W had no further use of the car though the agreement wasn't cancelled until November. So I think it's fair that Moneybarn refunds Miss W's payments for the months where she didn't have the use of the car.

I want to reassure Miss W that I have considered what she's told us about the impact this matter has had on her. I don't doubt that it has been stressful and I am sorry to hear that her circumstances have been difficult. However, I think Moneybarn's offer of £250 to reflect the distress and inconvenience caused is in line with what I would expect to award under the circumstances. And so in this case I'm not asking it to pay any more.

Putting things right

Moneybarn has already made an offer to settle Miss W's complaint and I think the offer is fair in the circumstances of this case.

My understanding is that the car was never returned to Miss W but, to be clear, if it hasn't already done so, Moneybarn should:

- End the agreement ensuring that Miss W doesn't pay anything further; and
- Collect the car at no cost to Miss W; and
- Refund three of Miss W's monthly payments to reflect the time she had no use of the car; and
- Pay her an amount of £250 to reflect the distress and inconvenience this matter has caused her; and
- Remove any adverse information about this loan from Miss W's credit file.

Moneybarn has said it would consider any out of pocket expenses Miss W's needed to pay while she was without her car. If Miss W wishes to take up this offer she should get in touch with Moneybarn directly.

My final decision

For the reasons set out above, I'm upholding Miss W's complaint about Moneybarn No.1 Limited and it should put things right as I've outlined.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 11 September 2020.

Michelle Boundy
Ombudsman