

The complaint

Mr S complains about the quality of a vehicle he acquired through a conditional sale agreement financed by Moneybarn No. 1 Limited trading as Moneybarn.

What happened

In May 2019 Mr S acquired a used car through a conditional sale agreement. The car was six years old and had a mileage of around 53,000 miles.

Mr S says that there were problems with the vehicle shortly after he acquired it, and he took it back to the dealership after about a week as the driver side window wasn't working, the tyres were making a noise and the engine light was on.

The noise continued so Mr S took the vehicle to a local garage who told him the tyres hadn't been fitted properly. Mr S says he paid approximately £350 for new tyres. A week later, the engine light came back on and he took it back to the dealership where a sensor was replaced.

Mr S says that the engine light came on multiple times after the sensor replacement, and he took the vehicle to multiple garages to try and diagnose the problem. No mechanical problem was found, and a system reset stopped the engine light from coming on.

In September 2019 Mr S took the vehicle overseas, where the engine management light came on. He called a breakdown company and a reset was performed. Mr S then took the car to a garage overseas, who suggested that some parts might need replacing.

Mr S drove the vehicle back to the UK where he broke down, the breakdown company told him he had a gearbox problem, and Mr S subsequently received a quote from a garage for £2,691.11 to replace the clutch, flywheel and gearbox.

Mr S complained to Moneybarn about the quality of the vehicle in December 2019. They responded to his complaint to say that the clutch, flywheel and gearbox could need replacing as a result of wear and tear. They said they were unable to inspect the vehicle because repairs had been completed already, and they didn't think that any fault was present at the point of sale, so they weren't responsible for the repairs.

Unhappy with this, Mr S brought his complaint to this service. He says that the repairs hadn't been completed and Moneybarn could've inspected the vehicle if they'd wanted to. He doesn't think the vehicle was of satisfactory quality. Our investigator looked into things for Mr S. They didn't think there was evidence that the vehicle was of unsatisfactory quality at the time it was supplied to Mr S.

Mr S hasn't accepted the investigators view, so the case has been passed to me for a decision.

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 what's fair and reasonable, I need to have regard to the relevant law and regulations. The agreement in this case is a regulated hire purchase agreement – so we can consider a complaint relating to it. Moneybarn as the supplier of the goods under this type of agreement is responsible for a complaint about their quality.

The Consumer Rights Act 2015 is relevant to this complaint. It says that under a contract to supply goods, there is an implied term that the “quality of the goods is satisfactory”. If this implied term is breached, then a consumer is entitled to have things put right by the supplier. To be considered “satisfactory” the goods would need to meet the standard that a reasonable person would consider satisfactory – taking into account any description of the goods, the price and other relevant factors. Those factors, in the case of a car, will include things like the age and mileage of the car at the time of sale, and the car's history.

The quality of the goods includes their general condition and other things like their fitness for purpose, appearance and finish, safety and durability.

Here, the vehicle was acquired used with a cash price of around £9,000. It was six years old and had travelled approximately 53,000 miles at the time of supply. With this in mind, I think it's fair to say that a reasonable person would expect that parts of the vehicle might have already suffered notable wear and tear, and that there's a greater risk that the vehicle might need some repairs or maintenance, sooner than a vehicle that wasn't as road worn when it was supplied.

I've seen evidence of the sensor replacement provided by Mr S, and the vehicle breakdown due to an engine management light whilst overseas. I haven't seen any evidence that these were linked to the failure of the gearbox in late 2019.

Mr S has explained that he's had a number of people look at the vehicle and the engine light, but I haven't seen any evidence that a fault was diagnosed at this stage, or that any repairs were undertaken. So, I'm not persuaded that there was a fault with the vehicle at this time, or that any earlier problems with Mr S's vehicle were related to the fault with the gearbox in late 2019.

At the time of the gearbox fault, the vehicle had travelled approximately 62,000 miles. So, Mr S had been able to cover some 9,000 miles in the seven months he'd had the vehicle before the fault occurred.

I think, that at six years old and having covered 62,000 miles, Mr S's car was around the age when a reasonable person might start to expect that some relatively serious repairs may be needed. Whilst what has happened is unfortunate, it is the risk of owning an older and higher mileage second-hand car like this one. I appreciate that having a car that breaks down is a stressful, and may be an expensive, experience for Mr S. That doesn't mean that Moneybarn are responsible for the cost of repairs.

Given the age and mileage of the vehicle at the time that it was supplied, and the use that Mr S has had of it since owning it, it seems more likely that the fault is due to fair wear and tear rather than an inherent defect with the vehicle.

I find that, on the balance of probabilities, it is more likely than not that Mr S's car was of satisfactory quality at the time that it was supplied. Therefore, although Mr S has experienced a fault with his car, Moneybarn are not responsible for the cost repairing the fault.

My final decision

For the reasons I've explained above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 6 May 2021.

Zoe Launder
Ombudsman