

The complaint

Mr P complains about the quality of a car he has been financing through an agreement with Moneybarn No. 1 Limited ("Moneybarn").

What happened

I issued my provisional decision on this complaint in February 2021. An extract from that provisional decision is set out below.

What I've provisionally 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 don't currently agree with the investigator's view of this complaint and I'm expecting to uphold it. Please let me explain why.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Mr P acquired his car under a conditional sale agreement. This is a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

The relevant law says, amongst other things, that the car should have been of satisfactory quality when supplied. If it wasn't then Moneybarn, who are also the supplier of the car, are responsible. The relevant law also says the quality of goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, the price and all the other relevant circumstances.

In a case like this which involves a car the other relevant circumstances would likely include things like the age, mileage and price at the time the car was supplied to Mr P. The car here was about seven years old and had already completed a high mileage of at least 87,626 miles. I'll come back to the mileage issue.

I think a reasonable person would not expect a car of that age and mileage to be in outstanding condition. They'd expect some signs of wear, but I don't think they'd expect the car to lose power and I don't think they'd accept the car was of acceptable quality if there was an Engine Management Light (EML) on.

I've had a look at Moneybarn's call log and can see that Mr P was in touch with them on 18 October 2019, a couple of months after he had taken charge of the car. The file note explains that Mr P had problems with the car when leaving the forecourt as he noticed the EML was illuminated. It refers to a fault with the Nitrous Oxide (NOx) Sensor.

That fault is corroborated in the diagnostic report Mr P has provided and the independent

inspector also notes fault codes relating to that fault in his report of 17 February 2020.

The investigator didn't think it would be fair to suggest the fault was present when the car was supplied as she noted the mileage Mr P had completed when he took the car for a diagnostic on 12 August 2019 was 88,932. She said that suggested he had been able to complete 1,334 miles before the fault occurred. She thought the fault had most likely developed during those 1,334 miles but I disagree, because:

- Mr P says he didn't complete 1,334 miles in only six days of ownership: it does seem a lot;*
- I don't think the mileage recorded in the finance agreement is correct. That mileage is 87,598 but a MOT completed four months earlier records the mileage as more than that, at 87,626. That supports Mr P's suggestion he hadn't completed 1,334 miles;*
- In August 2020 the mileage recorded in the MOT was 100,192. That suggests the car has completed 11,260 miles in the previous year (some of which won't have been in Mr P's tenure). That's an average of 938 miles per month and would again support Mr P's assertion that he doesn't typically complete a high mileage.*

So, whilst I can't be certain how many miles the car had completed before Mr P had the diagnostic completed, I'm persuaded the car had not covered an excessive number of miles. I think the chances of the fault occurring in the first six days is very limited and I think it's much more likely that there was a fault with NOx sensor and a leak from the heater when the car was supplied.

The relevant legislation says that if a fault happens in the first six months it is to be assumed it was there at inception unless the business can demonstrate otherwise. I don't think the independent inspector's report does demonstrate that. The inspector suggests the fault would not have been present when the car was supplied and refers to the car's mileage at the point of inspection. But the inspector hasn't considered the fact that the NOx sensor problem and the heater leak was reported when Mr P collected the car and I think, if he had, he wouldn't have been likely come to the same conclusion.

Relevant legislation allows the business an opportunity to repair a fault that is present at the point of supply. So, Moneybarn should now arrange to repair the NOx sensor and the heater leak at no cost to Mr P.

It's clear that Mr P has been inconvenienced by this issue. He's had to get a diagnostic completed and he's had to escalate a complaint to this service when I think it could have been resolved earlier on the evidence available. In those circumstances I think Moneybarn should pay Mr P £200 in compensation.

My provisional decision

For the reasons I've given above I'm expecting to uphold this complaint and to tell Moneybarn No. 1 Limited to:

- repair the fault with the NOx sensor and the heater leak putting right any water damage;*
- pay Mr P £200 to compensate him for the distress and inconvenience he's experienced.*

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.

Moneybarn didn't provide any further information and neither did Mr P, although he did write back to say he was satisfied with the decision and wished to progress without further delay.

Putting things right

As no further information has been provided I have not found any reason to change my provisional decision and that now becomes my final decision on this complaint.

My final decision

For the reasons I've given above I uphold this complaint and to tell Moneybarn No. 1 Limited to:

- repair the fault with the NOx sensor and the heater leak putting right any water damage;
- pay Mr P £200 to compensate him for the distress and inconvenience he's experienced

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 19 April 2021.

Phillip McMahon
Ombudsman