

The complaint

Ms L complains about the quality of a car she acquired through a conditional sale agreement financed by Moneybarn No.1 Limited.

What happened

In May 2019 Ms L acquired a used car through a conditional sale agreement. The car was six years old and had a mileage of around 41,000 miles. Ms L says she had to take the car back to the dealership for a new turbo shortly after she acquired it, and the engine management light (EML) came on shortly after these repairs were completed.

Ms L says she took the car back to the dealership where the fault codes for the EML were cleared, but the problem persisted, with the EML coming on and the car going into limp mode on an almost daily basis.

Ms L says she tried to contact the dealership to have the issue reviewed, but they didn't think there was anything wrong with the car. So, Ms L contacted Moneybarn in January 2020 to complain about the quality of the vehicle. Moneybarn arranged for an independent inspection of the vehicle in February 2020. The report from that inspection said there was no fault with the car.

Ms L says the car drove well for a short time after the inspection, but then the EML came on again. She contacted Moneybarn, who told her the complaint was closed as the engineer had found no fault.

Moneybarn say they asked Ms L for evidence of the ongoing fault, and none was provided.

Ms L had the car serviced, and then took it to a manufacturer approved dealership, who told her that the engine was not working properly. They quoted approximately £7,000 for repairs.

Unhappy with Moneybarn's response, Ms L brought her complaint to this service. Our investigator looked into things for Ms L and thought the car was of satisfactory quality at the time it was supplied to Ms L. Ms L doesn't agree and 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 conditional sale 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"

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 purchase, 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 car was acquired used with a cash price of around £10,000. It was six years old and had travelled around 41,000 miles at the time of supply. When a person acquires a used car like Ms L’s, it’s reasonable to say that the expectation of quality is lower than that of a new or younger second-hand car. The price for the vehicle is lower, and this is reflective of the fact that the car is more road worn. The chance of encountering a serious issue sooner, is higher.

Ms L has provided a quote completed in June 2020 which confirms that substantial repairs are required to the engine of the vehicle, so I’m satisfied there was a fault with the car. Ms L says that the vehicle was faulty at the time it was supplied to her. She says the engine was repaired by the dealership shortly after she acquired it, and the EML was on regularly after that.

Neither Moneybarn or Ms L have been able to provide evidence of any engine repairs completed shortly after Ms L acquired the vehicle, and the independent report states there are no markings on the vehicle that would indicate engine repairs had been completed previously. So, I’m not persuaded that the fault identified in June 2020 is linked to any previous repairs, or that the fault was present at the time that Ms L acquired the vehicle.

At the time of the independent inspection completed in February 2020 Ms L had driven the vehicle approximately 7,000 miles. That inspection noted that historic fault codes were cleared, and the vehicle showed no faults following a road test. I think if the vehicle had needed substantial engine repairs at this point, it’s more likely than not that this would have been identified during the inspection.

Ms L contacted Moneybarn shortly after the inspection to say the EML light was on again. Moneybarn asked Ms L to provide evidence of an ongoing fault with the vehicle, but none was supplied.

In June 2020 Ms L took the vehicle to a manufacturer dealership, who told her that substantial engine repairs were needed at a cost of approximately £7,000. At this point, Ms L had driven around a further 3,000 miles in the car. So, she appears to have been able to use the vehicle without any significant issue for some time.

Based on the evidence available, I’m not persuaded that the car was of unsatisfactory quality at the time that it was supplied to Ms L. She had driven a fair distance before any fault was reported and continued to use the vehicle without major problems for a significant period of time after the first inspection had been carried out.

I appreciate that having a car that needs substantial repairs is a stressful, and may be an expensive, experience for Ms L. That doesn’t mean that Moneybarn are responsible for the cost of repairs.

I think, that at around seven years old and having covered 51,000 miles, Ms L’s car was around the age when a reasonable person might start to expect that some relatively serious repairs may be needed. Given the age and mileage of the vehicle at the time that it was

supplied, and the use that Ms L 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.

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 Ms L to accept or reject my decision before 19 May 2021.

Zoe Launder
Ombudsman