

The complaint

Mrs R complains that Moneybarn No. 1 Limited refused to let her reject a car or contribute towards the cost of repairs.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. The facts are not in dispute so instead I'll focus on giving the reasons for my 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.

Having done so, I agree with the conclusions reached by the investigator for the following reasons:

In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulator's rules, guidance and standards and codes of practice and (where appropriate) what I consider to have been good industry practice at the time.

The finance agreement, that is the conditional sale agreement, in this case is a regulated consumer credit agreement. As such this service is able to consider complaints relating to it. Moneybarn is also the supplier of the goods under this type of agreement, and responsible for a complaint about their quality.

The relevant law says that under a contract to supply goods, there is an implied term that *"the quality of the goods is satisfactory"*.

The relevant law says that the quality of the goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, price and all other relevant circumstances. So it seems likely that in a case involving a car, the other relevant circumstances a court would take into account might include things like the age and the mileage at the time of sale and the vehicle's history.

Under the relevant law the quality of the goods includes their general state and condition and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability can be aspects of the quality of the goods.

Although the car was only some four years old it had covered a very high mileage and so it most likely will have suffered a fair degree of wear and tear. The garage which repaired the car has said that it considered the problem had been there for some time. However, the independent inspector has said: *"Taking into consideration the time and mileage covered by the vehicle since point of finance inception we do not consider this would have been present or developing at that time."*

The repairing garage's comments do not make it clear that it believed the problem was present at the point of sale while the independent inspector has given his professional

opinion that the fault was unlikely to have been present at the point of sale.

While the car had suffered some faults, which caused it to fail its MOT in November 2019 these were addressed and it passed a couple of days later. Nothing was raised during the MOT inspection which gave cause to expect the subsequent engine failure.

For me to be able to uphold the complaint I need to be satisfied that car was faulty at the point of sale. With the car having covered just under 1,000 miles, passing its MOT and the independent inspector not supporting rejection I find it difficult to uphold this complaint. I appreciate that it was very disappointing for Mrs R to discover the car required a replacement engine and I can understand she will be disappointed with my decision.

On the basis that it has not been established that the car was faulty at the point of sale I cannot require the business to accept rejection or contribute to the cost of repairs.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 23 July 2021.

Ivor Graham
Ombudsman