

## **The complaint**

Mr N complains that a car he took from Moneybarn No. 1 Limited under a hire purchase agreement was not of satisfactory quality.

## **What happened**

In May 2019 Mr N entered into a five-year conditional sale agreement with Moneybarn. The car which was the subject of the agreement was some five years old and had covered around 34,000 miles. Its cash price was just over £13,000.

The car passed an MOT test in June 2019. Mr N says that from about October 2019 he started experiencing problems with the car. Specifically, there was a coolant leak and a problem with the heater matrix. Mr N believed too that the car's exhaust gas rectification (or EGR) valve had been tampered with or removed. He tried to arrange repairs but was unable to do so. He contacted the dealership in January 2020, and it arranged to have the car taken for repairs. He complained to Moneybarn in March 2020.

Repairs were made to the cooling system and heater matrix. An independent inspection found however that there was no issue with the EGR valve. It had been correctly fitted and was functioning correctly. That inspection did however show that the car's diesel particulate filter (DPF) had been removed at some point – probably by thieves. Mr N made a successful claim under his insurance for that.

Mr N settled the finance with Moneybarn in June 2020; he kept the car and has more recently reported further issues with it.

Mr N complained to Moneybarn that the car had not been of satisfactory quality when it was provided to him. Unhappy with Moneybarn's response, he referred the matter to this service, where one of our investigators considered what had happened. He agreed with Mr N that the car had been faulty at delivery and that, as a result, he had not had any use of it from October 2019 until May 2020. He thought therefore that Moneybarn should refund any payments made during that time and pay Mr N a further £200 in recognition of the inconvenience to which he had been put.

Moneybarn did not accept the investigator's recommendations and asked that an ombudsman review the case.

I did that and, because I was minded to reach a different conclusion from that reached by the investigator, issued a provisional decision.

I noted that the agreement with Moneybarn was to be read as including a term that the car would be of satisfactory quality – meaning the quality a reasonable person would expect in all the circumstances. There had been a coolant leak within a few months of Mr N taking delivery of the car, but there was very little information about the cause. It might have been the result of wear and tear or it might have been something more serious. In any event, the dealership had repaired the leak at no cost to Mr N. Similarly, repairs were made to the heater matrix and cooling system.

I was therefore satisfied that, even if those were matters that meant the car was not of satisfactory at the point of delivery, enough had been done to put things right.

I accepted that there was no issue with the EGR valve, in line with the findings of the independent inspection.

I noted too that Mr N had said he was unable to use the car for several months while repairs were carried out. That was unfortunate, but I did not consider that the delays were the fault of Moneybarn. It had not been aware of any concerns until about March 2020. Some of the delay was caused by the theft of the DPF. I did not recommend that Moneybarn do any more to resolve the complaint.

In response, Mr N said that he had approached the dealership initially, but it had said that it was unable to help as the repairs that were needed were not covered under the car's warranty. He tried therefore to get his own garage to help, but it had difficulty locating parts. In around January 2020 Mr N contacted the finance broker, Z, which said that it was in touch with Moneybarn. Mr N said that he had been let down by the dealer, the broker and Moneybarn.

### **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 accept of course that there were problems with the car. However, because they were resolved, it is not possible to know for certain whether they were present at the point of supply or whether they meant the car was not of satisfactory quality. But, even I accept that the car was not satisfactory, I believe it was brought into a satisfactory condition by those repairs. In saying that, I make no comment on the later issues that Mr N says have now arisen.

Mr N's response to my provisional decision mostly discussed the delays in repairing the car. He pointed out that he had initially contacted the dealership and only became aware of his right to approach Moneybarn by about January 2020. He had been told that Z was in contact with Moneybarn and assumed that was the case. He noted that the investigator had commented on the timeline.

I accept that Mr N's account of what happened when he was trying to get the car repaired is accurate. In his assessment of the complaint, however, the investigator said that he did not think Moneybarn was responsible for the advice Mr N received in October 2019 or for the delays from January 2020. I agree with that. Moneybarn would have been responsible for any information or advice Z gave to Mr N about the finance agreement, but not for anything it or the dealership said about arranging repairs. Mr N's complaint is of course not about the finance agreement; it is about the quality of the car and how the repairs were handled. I do not believe therefore that I can properly hold Moneybarn responsible for the fact that Mr N was without the car for so long.

I would note as well that the finance agreement was a conditional sale agreement, not a hire agreement. The monthly payments that were due under the agreement were not simply payments so that Mr N could use the car over a certain period. They were, at least in part, payments for the purchase of the car. So, even if I thought Moneybarn was responsible for the car being off the road for as long as it was, it does not follow that any payments made in that time should be refunded.

### **My final decision**

For these reasons, my final decision is that I do not require Moneybarn No. 1 Limited to take any further steps to resolve Mr N's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 2 September 2021.

Mike Ingram  
**Ombudsman**