

The complaint

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

What happened

In December 2019, Miss S acquired a used car through a conditional sale agreement. She noticed the engine management light was illuminated in February 2020, and took the car to a local garage, who diagnosed fault codes relating to the camshaft and starter motor. The dealership extended Miss S's warranty period, no repairs were completed, and the car remained drivable.

Miss S complained to Moneybarn in October 2020 about a recall notice that was issued prior to her acquiring the vehicle, and about the faults found at the earlier inspection. Moneybarn sent Miss S their final response to her complaint in March 2021. They said the faults appeared to be as a result of normal wear and tear, and they didn't uphold her complaint. They paid Miss S £50 compensation for the delay in answering her complaint.

In June 2021, Miss S complained to Moneybarn. She said that the car had broken down and was no longer drivable.

Miss S referred her complaint to this service as she was unhappy with the lack of response from Moneybarn. In August 2021 Moneybarn sent Miss S their final response to her complaint. They said there wasn't any further evidence to show the faults were present at the point of sale, they thought the faults were a result of wear and tear, and they thought the car was of satisfactory quality at the time it was supplied to her. They didn't uphold her complaint. They paid Miss S £75 compensation for the delay in answering her complaint.

Our investigator looked into things for Miss S. He thought Moneybarn should arrange for an inspection of the vehicle, as Miss S had first raised concerns with the dealer two months into the contract period. This inspection was completed, and our investigator reviewed the resulting report. He thought that, considering the age and mileage of the vehicle, and the result of the inspection, the vehicle was likely to have been of satisfactory quality at the time it was supplied to Miss S, so he didn't think Moneybarn needed to do anything further.

Miss S didn't agree. She said the fault codes were evident shortly after she acquired the vehicle, and the car was faulty at the time it was supplied to her. She didn't expect to need to replace an engine in a car so soon, regardless of how old it was.

As an agreement can't be reached, 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 £8,000. It was six years old and had travelled approximately 115,000 miles at the time of supply.

When a person acquires a used car with an age and mileage like Miss S's, it's reasonable to say that the expectation of quality is lower than that of a new or younger/lower mileage 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.

I've seen evidence that Miss S told the dealership about the engine management light being illuminated in February 2020, around two months after she acquired the vehicle. I haven't seen any evidence of any repairs carried out, and Miss S appears to have continued to use the vehicle until it broke down in June 2021.

The vehicle passed an MOT test in October 2020, and Miss S had been able to drive it approximately 10,000 miles in the 10 months between acquiring it, and the MOT being done.

An inspection of the vehicle was completed in September 2021. That inspection recorded the mileage of the vehicle, and Miss S appears to have travelled approximately 15,000 miles during her ownership of the vehicle. I understand she hasn't driven it since it broke down in June 2021.

The inspection highlighted faults with the vehicle. There was damage to a cylinder bore, and an evident misfire. The exact cause of the fault wasn't determined, but the report goes on to explain that the damaged parts are subject to in service wear and tear during the use of the vehicle. A number of possible causes of the damage are explored in detail in the report, and the report concludes that the faults weren't present at purchase and are wear and tear or maintenance that have developed since.

I appreciate the strength of Miss S's feeling, that there was a problem with the car when she acquired it, but I'm persuaded by the findings of the report, that is that the current faults have occurred as a result of wear and tear of the vehicle over the course of Miss S's ownership of it.

Miss S has explained that there was an outstanding recall notice on the car that she wasn't aware of when she acquired it. I understand that repairs were completed as set out by the manufacturer, and I haven't seen any evidence that the recall, or the repairs, have affected the faults identified in the report.

I think, that at six years old and having covered 115,000 miles, Miss S's car was around the age when a reasonable person might expect that some 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 may need a new engine is stressful, and may be an expensive, experience for Miss S. That doesn't mean that Moneybarn are responsible for the cost of repairs.

I find that, on the balance of probabilities, it is more likely than not that Miss S's car was of satisfactory quality at the time that it was supplied. Therefore, although Miss S has experienced a fault with her car, Moneybarn are not responsible for the cost of 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 Miss S to accept or reject my decision before 8 February 2022.

Zoe Launder
Ombudsman