

The complaint

Mr M complains that a car acquired with finance from Moneybarn No 1 Limited trading as Moneybarn wasn't of satisfactory quality.

What happened

In May 2020 Mr M was supplied with a car and entered into a conditional sale agreement with Moneybarn.

Mr M experienced issues with the car. he says the turbo stopped working the day he collected the car and he had to take it back to the garage. He says the coolant was leaking and the clutch and flywheel needed replacing. Mr M says that he's had to spend over £2000 on repairs.

Mr M raised a complaint with Moneybarn. He was unhappy that the garage had repaired the turbo with a used part from another car. he also said the car wasn't of satisfactory quality because the clutch and flywheel were worn when he took possession of the car.

In response, Moneybarn said it was up to Mr M to show that the faults were present at the point of supply. It said that Mr M hadn't provided any evidence to show this, and that the issues were more likely due to wear and tear.

Mr M wasn't happy with the response and complained to this service.

Our investigator didn't uphold the complaint. She said that although the turbo needed replacing on the day Mr M collected the car, the repair had been carried out free of charge by the dealership and it wasn't necessary to ask Moneybarn to do anything further about this. In relation to the issues with the clutch and the flywheel, the investigator said she'd seen evidence that repairs had been carried out in January 2021, but said that because of the time and mileage elapsed since the point of supply, the issue were likely to be due to wear and tear.

Mr M didn't agree. He said although he'd covered 7000 miles in the car before the repairs to the clutch were carried out, he said the issues with the clutch had arisen in the first 6 months.

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.

Because Moneybarn supplied the car under a conditional sale agreement, there's an implied term that it is of satisfactory quality. Cars are of satisfactory quality if they are of a standard that a reasonable person would regard as acceptable, taking into account factors such as the age and mileage of the car and the price paid. I would expect a second hand car – such as that supplied to Mr M – to have a degree of wear and tear and to require repairs more often than a brand new car. So, in order to uphold this complaint, I would need to be

satisfied that there was a fault with the car at the point of supply, as opposed to a fault which occurred due to wear and tear.

Under the Consumer Rights Act 2015, where a fault occurs in the first 6 months there's a presumption that it was present or developing at the point of supply and it's up to the business to put things right. After 6 months the burden of proof is reversed and it's up to the consumer to show that the car wasn't of satisfactory quality at the point of supply.

There's no dispute that that turbo was replaced when Mr M collected the car. I understand that the dealer carried out repairs free of charge. This is what I would expect it to do under the relevant legislation. I understand that Mr M wasn't happy that the dealer used second hand parts to repair the turbo. However, Mr M's car was second hand, so I don't think it was unreasonable for the dealer to use second hand parts to repair it. There's no evidence that the parts used weren't fit for purpose or that the repair has failed. Taking this into account, I don't think I need to ask Moneybarn to do anything further about the turbo.

In relation to the issues with the flywheel and the clutch, and although Mr M has said that he experienced these issues within the first 6 months, the only evidence that I've seen shows that the repairs to the clutch and flywheel were carried out in January 2021. Mr M has referred to these parts needing to be replaced as an emergency. This makes me think that if the issues had arisen in the first 6 months, and if they were serious enough to require emergency repair (as Mr M says they were), then I would have expected him to have arranged for the repair to be carried out much sooner, and within the first 6 months. On balance, and taking the available information into account, I'm unable to safely conclude that the issues with the clutch and flywheel occurred in the first 6 months. This means that, under the relevant legislation, it's up to Mr M to provide evidence that there were faults with the clutch and flywheel at the point of supply. I haven't seen any evidence to suggest that this was the case.

I've taken the age and mileage of the car into account. At the point of sale, the car was around 8 years old and had covered around 70,000 miles. As I've already said, I'd expect a second hand car to have a degree of wear and tear. I can see that Mr M covered a further 7000 miles before the repairs to the clutch and flywheel were carried out. If there had been a fault with the clutch and/or flywheel at the point of supply, I would have expected the fault to have occurred much sooner. Because of the time and mileage elapsed, I think it's more likely that the fault was caused by general wear and tear.

I can see that the car had a MOT just before it was supplied to Mr M. If there had been a fault with the clutch at this time, I think this would've been identified at the MOT. There's nothing to suggest there was a fault and no advisories were noted.

Taking everything into account, I don't think there's enough evidence to say that there was a fault with the clutch or flywheel at the point of supply. It seems more likely that the fault was caused by wear and tear. So I can't say that the car was of unsatisfactory quality and I won't be asking Moneybarn to do anything further.

My final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 30 December 2021.

Emma Davy
Ombudsman

