

The complaint

Mr N complains about the quality of a car he has been financing through an agreement with Moneybarn No. 1 Limited, trading as Moneybarn ("Moneybarn").

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead I'll focus on giving my 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.

I know it will disappoint Moneybarn, but I agree with the investigator's opinion. Please let me explain why.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Mr N acquired his car under a conditional sale agreement. This is a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

The relevant law says, amongst other things, that the car should have been of satisfactory quality when supplied. If it wasn't then Moneybarn, who are also the supplier of the car, are responsible. The relevant law also says the quality of goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, the price and all the other relevant circumstances.

In a case like this which involves a car the other relevant circumstances would include things like the age and mileage at the time the car was supplied to Mr N. The car here was about six years old and had already completed about 50,000 miles. So, I think a reasonable person would expect some wear and tear, but I don't think they'd expect the car to be suffering from a fault that would render it unroadworthy.

The relevant legislation explains that if the fault occurs within the first six months we are to assume it was present at the point of supply, when Moneybarn were responsible for its quality, unless they can demonstrate otherwise. Mr N reported a problem with the air bag light being on, to the dealership, on the day he took receipt of the car. He's provided our services with copies of that message.

Whilst the independent engineer wasn't able to identify a problem with the airbag during his

inspection on 10 December 2020 the authorised dealership was able to corroborate the fault, only 20 days later. I think it's likely the dealership's tests were more thorough as, whilst I can see the independent engineer checked the loom and the connections, I can see the authorised dealership completed electrical tests. They concluded that there was low resistance and either the Electronic Control Unit and/or the device for detonating the airbag (SQUIB) would need replacing.

I'm therefore persuaded that it was likely the car had been supplied in that condition and that there had been a fault with the car at the point of supply. I think that fault would mean the car was of unsatisfactory quality as it wouldn't pass an MOT in that condition.

Mr N also complained about the brakes on the car screeching. The independent inspector wasn't able to drive the car, but he did note there was a lot of brake dust on the callipers and it seems this is the most likely cause. I think it's reasonable to suggest brakes are a wear and tear item and I'm not persuaded there is sufficient evidence to hold Moneybarn responsible for any deterioration in the brakes. When Mr N had the front brake pads changed in August 2020 I think any other issues with the brakes would have been likely to have been commented on at that point.

Putting things right

The relevant legislation says that a business should be given one opportunity to repair a fault that is present when the car is supplied. I don't think Moneybarn have had that opportunity so I think they should pay to have the car repaired. Mr N has already obtained a quote of £1,274.20 for this work and it would therefore seem reasonable to tell Moneybarn to refund it once the repairs have been completed. But as the car isn't roadworthy they'll also need to pay to collect the car and transport it to the garage where the work can be completed.

I understand that Mr N has financed another car since this one was taken off the road. I can understand that repairing rather than rejecting this car will present some problems as he'll have two cars in his possession. But the relevant legislation allows the business an opportunity to repair a fault and I don't think it would be fair to reject the car because Mr N made a decision to buy another.

Mr N hasn't been able to drive the car since 30 December 2020 when the airbag fault was eventually diagnosed. It's not fair for him to have been paying for a car he couldn't use so Moneybarn will need to refund any finance instalments he's paid since 30 December 2020. They'll need to add interest to that refund as Mr N has been deprived of that money. If there are any payments that were due from 30 December 2020 but haven't been paid by Mr N they should be waived.

Moneybarn have already offered Mr N £100 to compensate him for the distress and inconvenience caused but I don't think that's sufficient here. Mr N has been complaining about this problem for a long time and he's had to take the car off the road in the meantime. He's also explained that he's had to get an alternative car. In the circumstances I think Moneybarn should pay him an additional £100 in respect of the distress and inconvenience caused.

My final decision

For the reasons I've given above I uphold this complaint and tell Moneybarn No. 1 Limited to:

- Collect the car at no cost to Mr N and transport it to the garage for repairs. Pay for those repairs to the car's airbag (£1,274.20).

- Refund any finance instalments paid by Mr N since 30 December 2020 in respect of the lack of use he's had from the car. Add 8% simple interest per year to that refund from the date of payment to the date of settlement. If there are any payments that were due from 30 December 2020 that haven't been paid by Mr N they should be waived.
- Pay Mr N an additional £100 to compensate him for the distress and inconvenience caused.
- Remove any adverse reports they may have made to Mr N's credit file in relation to this issue.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 14 February 2022.

Phillip McMahon
Ombudsman