

## **The complaint**

Mr O complains that a car that was supplied to him under a conditional sale agreement with Moneybarn No. 1 Limited, trading as Moneybarn, wasn't of satisfactory quality.

## **What happened**

A used car was supplied to Mr O under a conditional sale agreement with Moneybarn that he electronically signed in November 2020. He complained to Moneybarn in May 2021 about issues with the car which had first occurred earlier that month. He said a health check had identified faults with the car and a garage had quoted £3,666.87 for the required repairs.

Moneybarn arranged for the car to be inspected by an independent expert. It then said that, based on the findings of the independent inspection and considering the date that the faults first appeared and the mileage covered while the car was in Mr O's possession, it was unable to uphold his complaint. It recognised the time that it had taken to provide Mr O with a response and paid him £75 compensation. Mr O wasn't satisfied with its response so complained to this service.

Our investigator didn't recommend that his complaint should be upheld. She said that she was unable to conclude that the car had inherent faults and wasn't of satisfactory quality when it was supplied to Mr O and she was satisfied that Moneybarn had reviewed his complaint fairly and reasonably.

Mr O has asked for his complaint to be considered by an ombudsman. He has responded to our investigator's recommendations in detail and says, in summary and amongst other things, that:

- he doesn't agree with the findings in the inspection report but he doesn't want to pay for another inspection as the garage identified faults with the car;
- his warranty claim was rejected due to parts that had been installed on the car – but he bought the car with those parts on it; and
- the contract says that if anything were to go wrong with the car within a six month period the dealer would be liable to fix it or replace the faulty part.

## **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 outcome recommended by our investigator for these reasons:

- Moneybarn, as the supplier of the car, was responsible for ensuring that it was of satisfactory quality when it was supplied to Mr O - whether or not it was of satisfactory quality at that time will depend on a number of factors, including the age and mileage of the car and the price that was paid for it;

- the car that was supplied to Mr O was about seven years old, had been driven for 52,582 miles and had a price of £11,040;
- satisfactory quality also covers durability which means that the components within the car must be durable and last a reasonable amount of time – but exactly how long that time is will also depend on a number of factors;
- the conditional sale agreement doesn't say that Moneybarn is liable to repair any faults that develop on the car within six months – it's responsible for ensuring that the car was of satisfactory quality when it was supplied to Mr O and there's a general presumption that, if a fault occurs within the first six months, it's for the supplier to show that the car was of satisfactory quality when it was supplied and, after that, it's for the customer to show that the car wasn't of satisfactory quality at that time;
- Mr O says that the issue with the car first occurred in early May 2021 – so more than five months after the car was supplied to him – he took the car for a health check and faults with the car were diagnosed - a garage then identified faults with the car and quoted £3,666.87 for the required repairs;
- Mr O complained to Moneybarn about those faults and it arranged for the car to be inspected by an independent expert – the inspection took place in July 2021 and the inspection report recorded the car's mileage as being 56,568 – so nearly 4,000 miles more than the mileage when the car was supplied to Mr O;
- the inspection report says:

*"In our opinion based on the visible evidence we would conclude that the vehicle displayed evidence of damage to number 2 piston, below the first compression ring, which we consider may have occurred due to detonation, as a consequence of fuel and air ratio mixture. However, we would recommend that further investigation is carried out.*

*In our opinion, however, the vehicle would not have been in this condition at finance inception".*

- there doesn't seem to be any dispute that there are faults with the car – those faults have been identified by the health check, the garage and the independent expert but I need to determine whether those faults were present or developing when the car was supplied to Mr O and whether it was of satisfactory quality at that time;
- the car passed an MOT test in November 2020, when it was supplied to Mr O, and its mileage was recorded as 52,587;
- Mr O was able to drive the car for more than five months before the issues occurred and in that time the car was driven for nearly 4,000 miles;
- the inspection report has been provided by an independent third party that's used widely in the motor industry to provide evidence about motor vehicles and it is regularly used by both suppliers and customers – although the inspection was arranged by Moneybarn, I'm not persuaded that the expert wasn't acting independently or that I shouldn't take account of the findings in the report;
- the inspection report also says:

*"We viewed the underside of the vehicle and noted that the catalytic converter did appear to be the standard fitment item ...*

*Number 2 piston was inspected and noted to display damage below the first compression ring.*

*The connecting rod was inspected and noted to be intact.*

*The cylinder bores were visually intact.*

*Cylinder number 1 piston displayed some light pitting to the edges of the piston. There was, however, no evidence of any excessive detonation.*

*We connected our diagnostic equipment and obtained fault codes relating to cylinder number 2 misfire.*

*Reportedly the faults had occurred due to leakage at the turbocharger air intake pipe”.*

- the inspection report concluded quite clearly that the faults wouldn't have been present when the car was supplied to Mr O and that the catalytic converter appeared to be the standard fitting and the connecting rod and cylinder bores were intact;
- I'm not persuaded that there's enough evidence to show that the faults have been caused by incorrect parts that were fitted to the car before it was supplied to Mr O;
- although the health check and garage have identified faults with the car, neither has provided persuasive evidence to show that the faults would have been present or developing when the car was supplied to Mr O and he's not provided any evidence from an independent expert despite being given the opportunity to do so;
- I sympathise with Mr O for the issues that he's had with the car and the repair costs that he may have to incur but I consider it to be more likely than not that the car was of satisfactory quality when it was supplied to him;
- Moneybarn has paid £75 compensation to Mr O because of the time that it took to respond to him and I consider that it's response to his complaint has been fair and reasonable in these circumstances; and
- I find that it wouldn't be fair or reasonable for me to require Moneybarn to allow Mr O to reject the car, to pay for it to be repaired, to pay him any further compensation or to take any other action in response to his complaint.

### **My final decision**

My decision is that I don't uphold Mr O's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 16 February 2022.

Jarrold Hastings

**Ombudsman**