

The complaint

Miss R is unhappy that a car supplied to her under a conditional sale agreement with Moneybarn No.1 Limited was of an unsatisfactory quality.

What happened

On 10 February 2020, Miss R was supplied with a used car through a conditional sale agreement with Moneybarn. The agreement was for £4,147 over 60 months; with monthly repayments of £141.36. At the time the car was almost five years old and had done 43,499 miles.

Miss R said that the car used an abnormal amount of oil and, in December 2020, the exhaust needed replacing. She complained to Moneybarn as she believed the issues with the car were present when it was supplied to her. And she wanted to reject the car.

Moneybarn arranged for an independent engineer to inspect the car. And this inspection said that the issues with the car weren't present or developing when the car was supplied. So, Moneybarn rejected her complaint. Miss R wasn't happy with Moneybarn's response and brought her complaint to us for investigation.

Our investigator said that Miss R first raised issues with the car, with the supplying dealership, on 22 July 2020, when the car had travelled 47,000 miles. And the dealership changed the oil and oil filter. And, on 25 August 2020, when the car had done 48,338 miles, the spark plugs were replaced. Miss R then had the exhaust replaced by an independent garage in December 2020, when the car had done around 50,000 miles.

The investigator said that, just because there were some issues with the car, this doesn't necessarily mean that the car was of an unsatisfactory quality when it was supplied. And the independent engineer's report didn't say that there were faults with the car when it was supplied. So, the investigator thought the issues Miss R had experienced were caused by general wear and tear, given the age and mileage of the car and the nature of the faults. And he didn't think that Moneybarn needed to do anything more.

Miss R didn't agree with the investigator. She said that the problems with the car happened immediately after supply, but she only became aware of them some time after the purchase because of the coronavirus (Covid-19) pandemic and the associated lockdowns.

Miss R also said that the dealership changing the oil and spark plugs were a "*clear acknowledgement of the problem.*" And, under the Consumer Rights Act 2015 (CRA), Moneybarn are allowed one chance at repair before she's entitled to reject the car. She's said that, while she accepts the replacement of the exhaust was as a result of wear and tear, she doesn't think that the high oil consumption is – she has to top up the car with around five litres of oil a month. And she's had an independent report done which confirms that the fuel consumption is very high.

Because Miss R didn't agree with the investigator, this matter has been passed to me to make a final 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.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Miss R was supplied with a car under a conditional sale agreement. This is a regulated consumer credit agreement which means we're able to look into complaints about it.

The CRA says, amongst other things, that the car should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of goods, Moneybarn are responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale; and the vehicle's history and its durability. Durability means that the components of the car must last a reasonable amount of time.

The CRA also says that goods must conform to contract within the first six months. So, where a fault is identified within the first six months, it's assumed that the fault was present when the car was supplied, unless Moneybarn can show otherwise. But, where a fault is identified after the first six months, it's for Miss R to show that it was present when the car was supplied. So, if I thought the car was faulty when Miss R took possession of it, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask Moneybarn to put this right.

I've seen a copy of the independent engineer's report dated 2 March 2021. At the point of inspection, the car had done 53,962 miles. The engineer conducted a 171-mile road test, during which the oil was topped up. The engineer said that *"in our opinion based on the visible evidence we would conclude that the vehicle is not showing any faults in regards to excessive oil consumption, oil warning lights or vehicle being in limp mode ... we would conclude that the vehicle has suffered from in use wear and deterioration."*

The engineer also said that *"taking into consideration the time and mileage since the point of finance inception ... we do not consider any faults to have been present since purchase ... there were no faults we consider to be unsuccessful repairs ... we do consider the faults to be wear and tear maintenance, which have developed since purchase."*

The engineer has confirmed that his duty is to the courts. And that this duty over-rides any obligation to any person who instructed and/or paid for the report. Given this, I'm satisfied that the independent engineer's comments are reasonable to rely on.

I've seen that Miss R has said the independent engineer told her that the car was using an extortionate amount of oil. But these comments aren't reflected in the report the engineer produced. She's also said that she has independent evidence that the car has high fuel/oil consumption. But I haven't seen anything to show me that this is as a result of a fault with the car that was either present or developing in February 2020 – when the car was supplied to Miss R.

Given the above, I'm satisfied that, under the CRA, the car was of a satisfactory quality when it was supplied to Miss R. And, while she's had issues with the car since supply, these are more likely than not as a result of ongoing wear and tear, given the age and mileage of the car. Because of this, the change of oil, oil filter, spark plugs and the new exhaust in 2020 don't class as 'failed repairs' under the CRA, and Miss R doesn't have the right to reject.

So, and while I appreciate that this will come as a disappointment to Miss R, I won't be asking Moneybarn to do anything more.

My final decision

For the reasons explained, I don't uphold Miss R's complaint about Moneybarn No.1 Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 27 January 2022.

Andrew Burford
Ombudsman