

The complaint

Mr T complains that a used car Moneybarn No.1 Limited supplied under a finance agreement is of unsatisfactory quality.

What happened

Mr T got this car with a conditional sale agreement (CSA) provided by Moneybarn in April 2020. The car broke down a month later and the repairs required were covered by a warranty (although Mr T had to make up a shortfall). Then, in November 2020, the car broke down again.

The breakdown service that recovered the vehicle thought there was an issue with the exhaust gas recirculation (EGR) valve. Mr T had the car checked by a third party garage (TPG) and he was told repairs would cost about £10,000 so he complained to Moneybarn, in December 2020. Mr T thinks the car was of unsatisfactory quality when he got it. He paid to have the turbo replaced in January 2021 but this didn't resolve matters. He wants Moneybarn to refund over £2,000 for repair costs and pay for a new engine to be fitted.

Moneybarn arranged for an independent expert to inspect the car. He thought further investigation was needed to identify what went wrong but he was satisfied that any faults present wouldn't have been there when Mr T got the car. Moneybarn didn't think it needed to do anything else in the circumstances and rejected Mr T's complaint.

Mr T felt that was unfair so he referred the matter to our service and one of our investigators looked at the evidence. She accepts the car has a fault but she's not persuaded this was likely to have been there at the outset - given the time that passed and distance travelled before the problem appeared. She notes the independent expert found it unlikely the fault was there when Mr T acquired the car – and thought it was more likely caused by wear and tear. She's satisfied (on balance) that the car was probably of satisfactory quality when it was supplied. She didn't think it would be fair to ask Moneybarn to do anything else. So, she doesn't recommend the complaint should be upheld.

Mr T remains unhappy. He asked for an ombudsman to review the matter. He says (in summary), the handbrake actuator had to be replaced soon after he got the car - and the warranty only covered part of the cost. Then he had to spend over £2,000 to have the turbo replaced in January 2021. He feels the supplying dealer has never been of any help - he was told they'd fix cameras that haven't worked since he got the car, but this never happened. He considers a car of this price, age and mileage shouldn't need a new engine so soon. He wants Moneybarn to pay for the car to be fixed and refund the cost of repairs undertaken already.

Having considered the available evidence, I wasn't minded to uphold this complaint. My reasons weren't quite the same as the investigator's however and I thought it was fair to give the parties the chance to see my provisional findings and respond if they wanted to before I made my final decision. I issued a provisional decision on 16 November 2021. I've set out what I decided provisionally - and why – below. This forms part of my final decision.

My provisional decision

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.

Moneybarn supplied this car to Mr T under a CSA and it was required - under the Consumer Rights Act 2015 (CRA) - to ensure (amongst other things) that the car was of satisfactory quality at the point of supply. What amounts to "satisfactory" quality will vary depending on individual circumstances. But, in the case of a used car, I think it's generally reasonable to take the age, cost and mileage at the point of supply into account.

The car Mr T got here was around six years old, cost about £12,500 and had around 118,000 miles on the clock. As such, I think a reasonable person would accept that some parts would be worn and likely need to be repaired or replaced sooner or later – which is reflected in the lower price paid for a used car compared to the price of a brand new vehicle.

There seems to be no dispute that the car broke down in November 2020, after Mr T had driven it just over 7,000 miles. I've seen a report from the breakdown service that attended at the time. This says the car would start up and run but mis-fired and would not rev. A scan found stored faults which the engineer cleared, but this didn't help and the engineer concluded that the off side EGR valve was sticking.

I'm not entirely clear about what happened next. I've seen an invoice from a TPG that shows the turbo was replaced in January 2021 at a cost of over £2,300. It seems this work was done after a different TPG diagnosed the issue but I don't have any further information that explains what either TPG found – such as job cards or a condition report. I haven't seen the car's service history either. And I have no reason to think that the car had any related issues in the past. I have checked the MOT history and I'm satisfied that nothing relevant was found at the MOT in April 2020 – when I'd expect the vehicle's emissions to have been checked, amongst other things. I've also checked the car's registration with the DVSA and I can't see any relevant manufacturer's recalls.

I think it was fair of Moneybarn to arrange for an expert to inspect the car in these circumstances. I'm satisfied the expert is independent and he seems to have relevant qualifications and experience. I think it's reasonable to give some weight to what he says in this situation. The expert saw the car in March 2021 when he was able to start it - but it didn't run for long. I note the expert records the same 124,987 miles on the clock as the invoice from the TPG in January 2021 – which suggests those repairs were unsuccessful and the car wasn't driveable after that.

I accept the expert was unable to identify what's wrong with the car exactly. He says further tests would be needed to do that. But, I think he seems to have carried out a fairly thorough inspection. I can see he ran relevant diagnostic checks that didn't reveal any current or pending fault codes. And he didn't identify any relevant longstanding issues from historic faults found in the car's memory. I'm satisfied the expert concluded that any faults present are probably due to general in-service wear and deterioration and these are unlikely to have been there when the car was supplied to Mr T.

On the current evidence, I see no reasonable grounds to disagree with the expert's conclusions. I understand it's disappointing when a used car like this has fault - especially when relatively expensive repairs are needed. And I realise Mr T feels it's unfair that he has to pay for repairs to a car that cost as much as this one when he only had it for about seven

months before it broke down.

I'm satisfied however that this car had already travelled around 118,000 miles by the time Mr T acquired it. I think it's likely to have accrued a fair amount of wear and tear in that time – which is one risk of acquiring a used vehicle with a relatively high mileage. I can see that Mr T was able to travel another 7,000 miles or so before the car broke down in November 2020. And, on balance, I think it's unlikely he would have been able to do that if the current fault had been present when he got the car.

I've given some thought to what Mr T says about the problem he had with the handbrake early on. As far as I can see, that was repaired successfully under the warranty - which Mr T appears to have accepted at the time. I don't think this issue is likely to be linked to what's wrong with the car now. And I can't reasonably conclude it means any current faults were present or developing at the outset.

For the reasons I've explained, I can only hold Moneybarn liable for faults that I'm satisfied are likely to have been present when this car was supplied. Based on the evidence provided so far, I don't think it's likely that any current faults were there at the outset. I'm not persuaded there are sufficient fair and reasonable grounds to conclude that this car was of unsatisfactory quality when it was supplied in these circumstances. And I'm unable to require Moneybarn to pay for repairs or do anything else.

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 invited Mr T and Moneybarn to consider my provisional findings and let me have any further comments or new evidence that they would like me to consider by 30 November 2021 - explaining that I would look at all the evidence available after that date and make my final decision.

Moneybarn hasn't provided any further submissions. Mr T is unhappy with my provisional findings. He feels it is wrong that he could be supplied with a car of this age and mileage without being warned of the risks. The investigator explained that it was open to Mr T to obtain and/or provide further evidence if he wanted to, but he hasn't sent us anything else or asked for more time to do so.

Nothing that's been said has persuaded me to change my mind. For the reasons I've explained above, I can't hold Moneybarn responsible for faults unless I'm satisfied they are likely to have been present when the car was supplied. From the evidence I've seen, I'm not persuaded it is likely that any current faults were present when Mr T got this car. I can't fairly find the car was of unsatisfactory quality at the point of supply in the circumstances.

I'm not persuaded there are sufficient fair and reasonable grounds to uphold this complaint so I'm unable to require Moneybarn to pay for repairs or do anything else. I realise this decision is likely to come as a disappointment to Mr T, as it's not the outcome he hoped for. Mr T doesn't have to accept my decision, in which case it remains open to him to pursue the matter by any other means available.

My final decision

For the reasons I've set out above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 13 January 2022.

Claire Jackson

Ombudsman