

The complaint

Mrs C complains that a car acquired with finance from Moneybarn No 1 Limited wasn't of satisfactory quality.

What happened

In February 2020 Mrs C was supplied with a car and entered into a conditional sale agreement with Moneybarn. At the point of supply the car was around 9 years old and had covered around 51,000 miles.

Mrs C experienced some issues with the car. the engine management light illuminated and there was a fault with the gearbox. The car was returned to the supplying dealer, who arranged for a specialist to replace the gearbox. Mrs C was provided with a courtesy car whilst the repairs were carried out.

In November 2020 Mrs C raised a complaint about the repairs. She said there were oil marks and plastic parts left in the car, and she hadn't received the logbook. In response, Moneybarn said it wasn't responsible for the service provided by the dealership but offered to cover the cost of a valet. It said the logbook had been sent to DVLA by the dealership.

In July 2021 Mrs C experienced further issues with the car. Following a breakdown, Mrs C obtained a report which showed diagnostic codes relating to the engine. The car had a new battery fitted. Mrs C complained to Moneybarn. She said the car was undriveable.

In August 2021 Mrs C settled the finance agreement. She remained unhappy with the quality of the car and asked Moneybarn to cover the cost of repairs or take the car back and refund her.

Our investigator didn't uphold the complaint. He said there wasn't enough evidence to show that the car wasn't of satisfactory quality at the point of supply.

Mrs C didn't agree. She said the car had a gearbox fault at the point of supply and that despite the repairs, she thought the same fault had occurred again.

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.

The Consumer Rights Act 2015 is relevant to this complaint. This says that goods must be of satisfactory quality when supplied. 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 Mrs C, 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 an inherent fault with the car, as opposed to a fault caused by general 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 generally up to the business to put things right. The business is allowed one opportunity to repair the fault. If the repair isn't successful, the consumer can reject the car. 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 when supplied.

An independent inspection can help to determine whether a car was of satisfactory quality when supplied. There hasn't been an independent inspection of Mrs C's car, so I've looked at the other available information.

Based on what I've seen, I'm satisfied that the car had a gearbox fault soon after Mrs C took possession of it. The supplying dealer arranged for repairs to be carried out, which is what I'd expect it to do under the relevant legislation. Mrs C has said that when she got the car back it worked as expected. But she said that by July 2021 the car broke down, and she thinks the same fault has reoccurred.

I've looked at the breakdown report. This records the mileage as 73,664., meaning that Mrs C had covered 22,568 miles since the point of supply, a period of around 17 months. Given that Mrs C was using a courtesy car for several months whilst waiting for the gearbox to be repaired, I think the car has covered significantly more than average mileage. And I think, given the mileage covered and the length of time Mrs C used the car before it broke down in July 2021, that it's likely that the repairs carried out to the gearbox were successful. If the repairs hadn't been successful, I would have expected issues to have occurred soon after the car was returned to Mrs C after the repair, particularly given the level of mileage being covered by the car.

The breakdown report dated July 2021 states that there is an engine diagnostic code and that a new battery was fitted. There's no diagnosis of a fault. Because the breakdown occurred more than 6 months after the point of supply, under the relevant legislation it's up to Mrs C to show that the car wasn't of satisfactory quality at the point of supply, or that the repairs weren't successful. Based on the evidence I've seen, I'm unable to say that Mrs C has shown this. There isn't enough evidence for me to safely conclude that the car wasn't of satisfactory quality at the point of supply.

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 Mrs C to accept or reject my decision before 31 March 2022.

Emma Davy
Ombudsman