

The complaint

Miss F complains about the quality of a car she has been financing through an agreement with Moneybarn No.1 Limited ("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.

Miss F acquired her 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 Miss F. The car here was already about ten years old and had completed about 68,526 miles. So, I think a reasonable person would expect a car of that age and mileage to be experiencing quite a bit of wear and tear.

The independent inspection report completed in August 2021 corroborated the report Miss F had commissioned in July of that year. The inspector said there was a fault with the gearbox that meant gears were being held.

The Consumer Rights Act (2015) is the relevant legislation. It 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 the car's quality, unless they can demonstrate otherwise.

The independent inspector didn't think the fault was present at the point of supply and thought the fault was related to in service wear and tear. The inspector said that if the fault had been present, or developing, when the car was supplied he would have expected the fault to have come to light within the first 500-700 miles of travel.

Miss F has explained that she complained about the gearbox fault within the first few days.

I find Miss F's explanation the most plausible. Miss F told us she had reported the problem to the broker shortly after the car was supplied to her. Our investigator asked Moneybarn to supply those call recordings, but they haven't done so, and I don't think that supports their argument. By the time of the first inspection (3 August 2021) Miss F had only completed 2,250 miles in the car. Messages I've been supplied with show that she was discussing the need for an inspection with the broker in early July when it seems the mileage would have been even less. On balance, I think it's likely that there was a problem developing or present with the car's gearbox when it was supplied to Miss F and it was therefore of unsatisfactory quality.

I can see that Miss F has also complained about there being stains on the seats and a dent in the bumper. The relevant legislation explains that where there are issues with goods that ought to have been apparent to the consumer when they initially inspected the car we should consider the goods to have been accepted in that condition. I've not seen any evidence of these problems but even if I had I wouldn't suggest they were issues Moneybarn should put right for Miss F as they seem most likely to be things that ought to have been evident when the car was supplied.

The relevant legislation says that businesses are allowed one opportunity to repair faults when goods are provided in an unsatisfactory condition. So, I think Moneybarn should repair the gearbox fault.

Putting things right

Moneybarn should repair the gearbox fault and, if the £60 Miss F paid for her diagnostic report hasn't been refunded to her they should do that, adding 8% interest as Miss F wouldn't have had to commission that report if the car was of satisfactory quality and she's been deprived of that money since paying it.

Miss F has also been inconvenienced by these matters. She's had to escalate her complaint to this service when I think it could have been resolved earlier and she's also had to drive a car that was holding gears for too long and where kick down wasn't available. In those circumstances I'm asking Moneybarn to pay her £100 to compensate her for that inconvenience.

My final decision

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

- Repair the gearbox at no cost to Miss F.
- Reimburse the £60 Miss F paid for the diagnostic unless they've already done so. Add 8% simple interest per year to that refund from the date of payment (3 August 2021) until the date of settlement.

- Pay Miss F £100 to compensate her for the inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or reject my decision before 13 June 2022.

Phillip McMahon
Ombudsman