

The complaint

Miss S complains that a car that was supplied to her under a conditional sale agreement with Moneybarn No. 1 Limited wasn't of satisfactory quality. She also complains that she was told that she could return the car and the agreement would be ended.

What happened

A used car was supplied to Miss S under a conditional sale agreement with Moneybarn that she signed in November 2020. She complained to Moneybarn about some issues with the car in January 2021 and it arranged for the car to be inspected by an independent expert. Moneybarn then said that no faults had been found with the car, cancellation of the agreement hadn't been agreed and that the car was available for collection from the dealer. Miss S wasn't satisfied with its response so complained to this service and hasn't collected the car.

Our investigator didn't recommend that her complaint should be upheld. She said that Moneybarn had demonstrated that there was nothing wrong with the car so there hadn't been a breach of contract which would make it liable for repairs or rejection of the car. She didn't think that it was unreasonable that it wouldn't unwind the agreement.

Miss S has asked for her complaint to be considered by an ombudsman. She says that she has neither the financial means nor the intention to pay the amounts due under the agreement. She says that the car was faulty when it was supplied to her and that it must have been repaired before the inspection took place. She also says that she's received threatening phone calls from the dealer and has contacted the police.

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 Miss S - 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 Miss S was about five years old, had been driven for 103,000 miles and had a price of £8,387;
- 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;
- Miss S phoned Moneybarn in January 2021 about some issues with the car, including that the gear knob had fallen off, the passenger seatbelt warning was

beeping when the seat wasn't being used, the rubber door sills were broken and a pipe had burst – and she said that the car was being collected by the dealer;

- Moneybarn's notes of that phone call say that Miss S thought that the dealer would unwind the agreement but that it advised her that it would need confirmation of that from the dealer and the finance broker;
- Moneybarn arranged for the car to be inspected later that month and the inspection report, which recorded the car's mileage as 105,657 miles, said: *"In our opinion based on the visible evidence we would conclude that we found no issues with the vehicle at the time of our inspection. The outer seals on the nearside rear and offside rear doors showed commensurate aging and splitting. However, this did not detract from the vehicles overall condition. The split seals would not cause water ingress and are fitted for reduction of wind noise only. We were unable to replicate any of the reported issues at the time of our inspection. We do consider the vehicle is safe to return to normal service use and the selling agent is not responsible for any costs of repairs"*;
- the car had passed an MOT test, with no advisories, in October 2020 – before it was supplied to Miss S – and it's mileage at that time was 103,442;
- Miss S had agreed to make 59 monthly payments of £278.87 for the car to be supplied to her but she's stopped making those payments to Moneybarn and hasn't collected the car from the dealer;
- I sympathise with Miss S for the concerns that she has about the car and which she says were identified by a friend who is a mechanic – but the car has been inspected by an independent expert and no fault has been found;
- Miss S says that the car must have been repaired before the inspection took place – but, if it has been repaired and the repairs have dealt with the issues, I would consider that to be a reasonable response to those issues;
- I've seen no other evidence to show that there are faults with the car and I'm not persuaded that there's enough evidence to show that the car wasn't of satisfactory quality when it was supplied to Miss S or that it would be fair and reasonable in these circumstances for Miss S to be allowed to reject the car;
- nor have I seen enough evidence to persuade me that the dealer had agreed that the agreement would be unwound and it's clear that Moneybarn, which supplied the car to Miss S and was the other party to the agreement, hadn't agreed to unwind the agreement;
- Moneybarn has confirmed that the car is in its possession and that it now intends to sell it which is likely to result in a default termination of the agreement;
- Miss S has described her financial and other difficulties – and I also sympathise with her for those difficulties - our investigator has provided her with details of organisations that might be able to help her with her financial difficulties and Moneybarn is required to respond to those difficulties positively and sympathetically;
- Miss S says that she's received threatening phone calls from the dealer and has contacted the police – I again sympathise with her for any issues that she's been caused by the dealer's calls but that isn't something for which Moneybarn is responsible and I'm unable to require it to take any action about those calls – Miss S says that she's contacted the police and our investigator has provided her with the details of Trading Standards and the Motor Ombudsman who might be able to help her with her issues with the dealer; and

- I find that it wouldn't be fair or reasonable in these circumstances for me to require Moneybarn to allow Miss S to reject the car, to end the conditional sale agreement, to pay her any compensation or to take any other action in response to her complaint.

My final decision

My decision is that I don't uphold Miss S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 23 May 2022.

Jarrold Hastings

Ombudsman