

## The complaint

Miss W complains that a car supplied under a conditional sale agreement with Moneybarn No. 1 Limited was not of satisfactory quality.

## What happened

In March 2021 Miss W took a used car from Moneybarn under a five-year conditional sale agreement. The car was around five years old and had covered around 90,000 miles. It cost just over £8,700.

Within a few months, Miss W says she started having problems with the car. They included worn tyres, a broken tyre valve, problems with the drive train, problems with the exhaust and a deep scratch. She arranged to have two tyres replaced and the valve fixed, but other issues remained unresolved.

Miss W referred the matter to Moneybarn, and it arranged for the car to be inspected. It concluded that the issue with the drivetrain had probably been present at the point of sale but said that it was not clear if the same could be said of the exhaust issue.

Based largely on the inspection report, Moneybarn agreed that the dealership should repair the drivetrain. It did not agree to the exhaust repairs and said that Miss W had not shown that it was a problem when the car was supplied.

Miss W was not happy with Moneybarn's response and referred the matter to this service. Our investigator recommended that Moneybarn arrange for repairs and refund a proportion of the monthly payments, to compensate Miss W for the impaired use of the car. Moneybarn did not respond to the investigator's findings. Miss W said she was no longer in contact with the dealership; she also provided a quote for some of the work. The case was therefore passed to me for further consideration.

I reviewed the case and issued a provisional decision. In that decision, I said:

*Miss W's contract with Moneybarn was to be read as including a term that the car would be of satisfactory quality. That means the quality a reasonable person would expect in all the circumstances, including the car's age, price and mileage. It does not include matters which a reasonable inspection would have revealed. The car here was around five years old and had a high mileage. It was priced very much lower than a new car of the same make and model would have been. It was not therefore reasonable to expect it to be entirely free of faults. Some wear and tear was to be expected.*

*Miss W says the car was scratched. I think though that was something she could have noticed before she took delivery of it. So, I don't believe it meant the car was not of satisfactory quality.*

*Tyres are items which need to be replaced from time to time, and I would often regard worn tyres as matters of wear and tear. In this case, however, the level of wear was such that it*

*appears the front tyres were potentially dangerous. I think Miss W was entitled to expect that the car's tyres, even if worn, would at least be serviceable.*

*Moneybarn appears to accept that repairs were needed to the drivetrain, in the form a replacement clutch and flywheel. Miss W has provided a quote of £980 for this work. The inspection report indicated that the issue with the exhaust may be the result of a blocked diesel particulate filter (DPF), and I have approached the complaint on the assumption that is correct.*

*In my view, all of these matters mean that the car was not of satisfactory at the time they were identified. It does not follow however that it was not of satisfactory quality at the point of delivery. I have therefore considered whether it was or whether the faults might have developed later. I note that Miss W had driven the car some 4,000 miles before the inspection took place.*

*In court proceedings, it is for the person who alleges something to prove it. Here, it is Miss W who says the car was not of satisfactory quality. However, one effect of the Consumer Rights Act 2015 is that, where a fault becomes apparent within six months of delivery, there is a presumption that it was present at the point of delivery. I don't believe that Moneybarn has shown that the faults I have discussed above developed in the six months after Miss W took delivery of the car. It follows that it is responsible for them.*

*In part, it seems that Moneybarn accepts its liability here. Its response – to agree to repairs to be carried out by the dealership – has not however resolved matters. I note that Miss W lives more than 250 miles from the dealership, so that is in any event unlikely to be practical. Instead, I think Moneybarn should pay Miss W an appropriate sum in compensation so that she can arrange for repairs, if she wants to resolve the matter in that way. Miss W has not provided copy invoices and estimates for all the work needed, and it is open to her and Moneybarn to do so in response to this provisional decision. If they do so, I will take them into account. It appears however that a reasonable estimate of the cost of repairs is £1,450, made up as follows:*

- Clutch and flywheel - £1,000;*
- Diagnostics - £100;*
- DPF cleaning – £200;*
- Tyres and valve - £150.*

*The investigator thought that Miss W should have a refund of part of the monthly payments as compensation for impaired use of the car. I note however that Miss W's use of the car has been close to the national average, so I don't propose at present to include that in any award. There can however be no question that she has been put to significant inconvenience and distress, so I am proposing a further payment of £250 in recognition of that.*

*I note as well that Miss W has not made all the monthly payments due, and the investigator recommended that any adverse credit information be removed from Miss W's credit file. Again, my present view is that that would not be appropriate. Miss W remained liable to make payments towards the purchase of the car and continued to use it.*

*I recommended that Moneybarn pay Miss W a total of £1,700 to resolve the complaint.*

*Miss W responded to explain the effect the credit report was having on her. Moneybarn had nothing to add.*

### **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 have not changed my view of how Miss W's complaint should be resolved. I remain of the view that Moneybarn should pay for repairs and pay Miss W a further £250 in recognition of the inconvenience to which she has been put and the distress she has suffered. I do not believe however that it would be appropriate to require Moneybarn to remove any adverse credit information in relation to the finance agreement.

### **My final decision**

For these reasons, as well as those set out in my provisional decision, my final decision is that, to resolve Miss W's complaint in full, Moneybarn No.1 Limited should pay her £1,700.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 1 June 2022.

Mike Ingram  
**Ombudsman**