

## **The complaint**

Mr I complains about the quality of a car supplied by Moneybarn No.1 Limited.

## **What happened**

In February 2020 Moneybarn supplied Mr I with a used car under a conditional sale agreement. The car was approximately four years old and had completed just over 50,000 miles. The cash price was £13,980, with an advance payment of £460.55. Mr I agreed to repay £455.82 a month over a period of 60 months.

Mr I said he had ongoing issues with the diesel exhaust fluid (DEF) system, where the car seized and had to be recovered. He also says he noticed the engine was noisy when he first got it but thought this was how a diesel car was supposed to sound, he suspects this was related to the timing chain issue that was later identified. Mr I complained to Moneybarn, he wanted the car repaired, a refund of the money spent on repairs and compensation. Moneybarn didn't uphold Mr I's complaint, it said Mr I hadn't raised any issues with the car until after six months, so it was his responsibility to prove the issues had been either developing or present at the point of supply. It also said the rattling timing chain would be a wear and tear issue rather than a fault.

Mr I brought his complaint to our service. One of our investigator's said Mr I had reported concerns about the car within the first four months to a garage. In the absence of any evidence from Moneybarn, she thought the DEF and timing chain issues were more likely to be faults present at the point of sale. She recommended Moneybarn collect the car and repair it, refund Mr I 25% of his monthly instalments to reflect his loss of enjoyment, reimburse him the cost of repairs, pay him £400 and remove two month's arrears from his account.

Mr I said the car seized again in January 2021, he now wanted to reject it. Moneybarn said it would carry out an independent inspection to ascertain whether there were any faults present or developing at the point of sale. An independent report completed in February 2022 concluded the car wasn't drivable, but that the DEF and timing chain issues would not have been present or developing at the point of supply.

We also asked the garage who had recovered the car and completed repairs for more information. The garage explained the DEF, also known as AdBlue needed to be topped up and maintained. AdBlue helps reduce emissions and the car is programmed not to restart once the AdBlue levels are low. It said Mr I had not been correctly maintaining the AdBlue, which caused the car not to restart and it had to carry out resets and cleans.

Another investigator looked at everything, based on the information from the garage and the independent engineer she thought the reported AdBlue and timing chain issues were maintenance issues rather than faults. She didn't recommend the complaint was upheld. Mr I disagreed, in summary he said the AdBlue warning message on the dashboard would stop counting down the mileage until no restarts, to the message no restarts *soon*, he said this was dangerous as he was unable to tell when the engine would stop. The complaint was passed to me to make a final 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.

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.

As the conditional sale agreement entered into by Mr I is a regulated consumer credit agreement this service is able to consider complaints relating to it. Moneybarn is also the supplier of the goods under this type of agreement and is responsible for a complaint about its quality.

Under the Consumer Rights Act 2015 there is an implied term that when goods are supplied "*the quality of the goods is satisfactory*". The relevant law says the quality of the goods is satisfactory if they meet the standard a reasonable person would consider satisfactory taking into account any description of the goods, price and all other relevant circumstances.

The relevant law also says that the quality of the goods includes their general state and condition, and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety and durability can be aspects of the quality of the goods.

Here the car wasn't new, being four years old and with a mileage of just over 50,000. So, I think a reasonable person would expect that issues with wear and tear, maintenance and repair would arise over time. So, unlike a brand-new car, there wouldn't be an expectation that the car would be fault free.

### ***AdBlue issues***

Mr I says he has had ongoing issues with the AdBlue system. He says the warning on the dash initially counts down the mileage, before the car will not restart, but then it flips to car will not restart "soon", leaving him unsure of when the car will not be able to restart. He also says the warning light incorrectly states "incorrect DEF quality detected", when the correct AdBlue has been used. Mr I says the AdBlue light came on in June 2020, the car later seized and this has happened on three separate occasions.

I've looked at the invoice dated 29 June 2020, I can see the car was recovered, diagnostics completed, the AdBlue system reset and the injector cleaned. In October 2020 Mr I took the car back to a garage, as the AdBlue warning light had come back on. The invoice shows the AdBlue system was reset, and Mr I was advised to drive between 20-40 minutes to ensure the warning light disappeared. Another invoice in May 2021 shows Mr I returned the car to the garage for maintenance, the AdBlue was refilled, the AdBlue system was reset, tyre pressure reset, and windscreen washer refilled. Mr I tells us the AdBlue warning light came on again and the car seized again in January 2022.

In February 2022 the independent assessor said the car could not start and the warning light displayed the message "no engine restart possible incorrect exhaust fluid quality detected NOX/cat reductant NOX forced engine shutdown". The report concluded this fault would not have been present or developing at the point of supply.

We spoke to the warranty garage who initially looked at Mr I's car, it explained that vehicle manufacturers are legally obliged to make sure their vehicles limit the emission of harmful gases and particulates. AdBlue is not physically required to run an engine but running an

engine without it will cause the vehicle emissions to exceed what's legally permitted, so newer diesel vehicles are programmed to refuse to start if it runs out.

The garage advised that even if you top up the AdBlue, some systems will still need the system purging and/ or resetting if the AdBlue levels are allowed to get too low or run out completely. Even slightly low AdBlue levels will cause the vehicle to continue counting down to the point it will refuse to start, even after being topped up. Which will mean the vehicle will need to be recovered if the vehicle refuses to start. The garage explained that AdBlue needs to be regularly topped up, just like fuel or oil and shouldn't be allowed to go too low.

The garage explained Mr I contacted it on 4 June 2020 to advise the AdBlue warning light had come on and was saying he had 400 miles before the engine would not restart. Mr I ignored this and continued to drive, allowing the AdBlue level to run too low before re-filling, as a result the engine would not restart and the car had to be recovered on 29 June 2020. The garage said Mr I had overfilled the AdBlue tank, which had to be drained, cleaned and the system reset. It also noted AdBlue had crystalized on the injector, so this was cleaned.

The garage was of the view that the AdBlue issues were not related to a fault, but due to Mr I allowing the AdBlue levels to run too low and advised the cleaning of the injector was normal maintenance for cars with an AdBlue system. The garage told us the warning light would flip from counting down the mileage counter to a *no restarts soon* message, when the AdBlue levels are too low for the sensor to pick up and advised the incorrect DEF quality message was likely to be due to AdBlue overfilling or the AdBlue crystalizing on the injector.

Based on the evidence provided, I'm not satisfied that the AdBlue issues previously experienced or the current AdBlue issue is a result of a fault, that was present or developing at the point of sale, but think it is more likely to be a maintenance issue.

#### *Timing chain*

Mr I says he noticed the car was noisy when he took delivery of it, and says this was linked to a fault with the timing chain which later failed. The invoice dated June 2020 states "*rattling timing chain*" as an advisory. The garage said it recommended Mr I take the car back to the dealership to look at this. Mr I told us he didn't do this, as he expected the dealership to contact him about it. But I can't see how the dealership would be aware of this unless Mr I got in touch with it.

The independent assessor concluded "*the timing chain deterioration when present in the early stages of failure produces abnormal noise and is a well-documented issue. The deterioration of the timing chain is not uncommon at 72,000 miles and often produces abnormal noises. If the condition is left for a period of time, the timing chain can suffer fatigue failure. This can lead to consequential damage and also could be the reason for the engine not starting, along with the DEF fluid issue*".

The engineer went on to explain why he didn't consider the timing chain failure to be present at the point of supply. He said "*it is reasonable from an engineering perspective to consider that the condition is the result of wear and deterioration. This would be commensurate with the car's age and recorded mileage. Although such a condition is progressive in development, the condition would not have been present at the point of sale taking into consideration the car had covered over 22,000 miles. Had the condition been present at the point of sale with regards to the AdBlue/DEF issues or the timing chain issue, it would have been noted within 2,000 miles of use*".

Mr I's car was four years old and had covered over 50,000 miles when he got it. The car had covered 72,000 miles before the timing chain failure, so I think It's more likely, given the age and mileage of the car, that the fault occurred due to general wear and tear and rather than a fault.

For me to uphold Mr I's complaint I must be satisfied the car wasn't of satisfactory quality when it was supplied to him. Taking into account the independent assessor's conclusions, the repair history and the view of the garage, I can't reasonably find the car was not of satisfactory quality when it was supplied to Mr I and have no grounds to ask Moneybarn to accept his rejection of the car.

### **My final decision**

My final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 22 August 2022.

Karen Dennis-Barry  
**Ombudsman**