

The complaint

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

What happened

In February 2021 Mr H was supplied with a car and entered into a conditional sale agreement with Moneybarn.

Mr H experienced issues with the car soon after getting it. These included a faulty clutch pedal, faulty Bluetooth, service light illuminated, missing parcel shelf, brake callipers seized, handbrake cable not working properly, and the battery needed replacing.

The dealer covered the costs of a replacement battery and repaired the brakes. However, Mr H continued to experience issues with the car and complained to Moneybarn.

Moneybarn arranged for an independent inspection of the car. The inspector found no fault with the clutch pedal or clutch operation and said that the Bluetooth was working. He found no warning lights displayed and said the brakes and gears were working correctly. The inspector said that the parcel shelf was missing but that this didn't affect the satisfactory quality of the car.

Based on the findings of the inspector, Moneybarn said it wasn't prepared to assist.

Mr H remained unhappy and brought his complaint to this service.

Our investigator partially upheld the complaint. He said there wasn't enough evidence to show that there was a fault with the clutch or the gears. However, the investigator said he was persuaded by Mr H's video evidence that there was a fault with the handbrake and that this meant that the car wasn't of satisfactory quality. The investigator said Moneybarn should pay for the handbrake to be repaired and pay £100 compensation to Mr H.

Mr H didn't agree. He said the clutch had been a problem since the day he got the car, and that his local garage had diagnosed a fault with the clutch and the flywheel.

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. The quality of goods includes their general state and condition and other things like fitness for purpose, appearance and finish, freedom from minor defects, safety and durability.

I would expect a second hand car to have a degree of wear and tear and to require more

regular repairs and maintenance than a brand new car. So, in order to uphold this complaint, I would need to be satisfied that there was a fault with the car which made it of unsatisfactory quality, as opposed to a fault which was due to general wear and tear.

Mr H reported a fault with the brakes and the battery within the first week of getting the car. I can see that both items were replaced and the cost reimbursed by the dealership. I've thought about whether these faults made the car of unsatisfactory quality. However, batteries and brakes are serviceable parts of a car which require replacement from time to time as part of general maintenance. So I don't think the fact that these parts required replacement made the car of unsatisfactory quality.

I can see that Mr H reported a problem with the clutch around 3 weeks after he got the car. This followed an incident at which a rescue organisation attended the car at the roadside. I've looked at the report relating to this. This states that the clutch pedal was to the floor but that on swapping drivers, Mr H was able to lift the clutch and drive away. Based on what I've seen in the report, I don't think this shows that there was a fault with the clutch.

I've also looked at the independent inspection report. In relation to the clutch, the report states that the clutch pedal was resting in the correct position and that the clutch piping was free from leaks. The inspector stated that he was unable to replicate a fault with the clutch. Based on what I've seen in this report, I'm unable to conclude that there's a fault with the clutch.

Mr H has said that his local garage has inspected the car and told him that the clutch is weak. I've taken this information into account. I've also taken the age and mileage of the car into consideration. At the point of supply, the car was around 7 years old and had covered 87,000 miles. It's reasonable to expect to replace a clutch at 70,000 – 100,000 miles. One of the signs that a clutch needs replacing is a spongy, sticky or loose clutch pedal when pressed and difficulty shifting gear. Based on what Mr H has told this service about the issue he's experiencing I think it's likely that the clutch needs replacing. But I'm not persuaded that the evidence shows that there was an inherent fault with the clutch. I think it's more likely that the clutch requires replacement due to general wear and tear. So, I can't fairly hold Moneybarn responsible for this.

I've also considered the issues with the handbrake. I've looked at the video evidence provided by Mr H, which shows the car rolling off driveway. This happened in the first 6 months. I've also looked at the report from Mr H's garage which states that the handbrake cables have been greased as a temporary fix but that both need replacing.

I've also taken into account what has been said about the handbrake in the independent report. It states on an efficiency test, the handbrake rendered a measurement of 27%.

Based on what I've seen, I'm persuaded that there is a fault with the handbrake. Whilst there's no set lifespan for a handbrake, I don't think a reasonable person would expect to replace both handbrake cables within 6 months of getting a car. Because of this, I don't think the handbrake was sufficiently durable, which means the car wasn't of satisfactory quality when supplied.

Putting things right

I've already explained that I don't think the car was of satisfactory quality because of the fault with the handbrake. Under the relevant legislation, Moneybarn is allowed an opportunity to repair the fault. It should arrange for the handbrake to be repaired at no cost to Mr H, or alternatively, reimburse Mr H the cost of repairs to the handbrake if he arranges these locally.

In addition, Moneybarn should refund the cost of the independent inspection report, because this confirmed that there was an issue with the efficiency of the handbrake.

It's clear that the fault with the handbrake has impacted on Mr H. Another car was damaged when the handbrake failed. I haven't seen any evidence of any costs arising from that incident, however, I think it's fair to ask Moneybarn to compensate Mr H for the distress and inconvenience caused as a result of this. I think the sum of £100 is fair and reasonable.

My final decision

My final decision is that I uphold the complaint. Moneybarn No 1 Limited must:

Arrange for the handbrake to be repaired at no cost to Mr H

Refund the cost of the inspection report plus 8% simple interest from the date of payment to the date of settlement

Pay £100 compensation for distress and inconvenience

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 1 September 2022.

Emma Davy
Ombudsman