

## **The complaint**

Mr R complains that a vehicle he acquired via a conditional sale agreement with Moneybarn No.1 Limited wasn't of satisfactory condition. He wishes to reject it.

## **What happened**

In February 2022 Mr R entered into a 50-month conditional sale agreement with Moneybarn for a used van. The van was around seven years old and had a mileage of about 112,500. The van was supplied with a three-month warranty.

Around the end of February 2022 Mr R says that he noticed some problems with the van as there were warning lights illuminating on the dashboard and its doors were difficult to open. He had the van inspected by another garage who provided him with a diagnostic report which set out a number of fault codes they had found.

Mr R contacted the supplying dealer about the van. The supplying dealer says that Mr R was going to go through the warranty to have issues with the van fixed.

Near the end of March 2022 Mr R made a complaint to Moneybarn about the condition of the van. He said there were issues with the brakes, the fuel injectors, emissions, the windows were not working, the speedometer was not working, the sliding door and the rear doors had issues shutting, there was water ingress in the load area of the van and that it was experiencing loss of power. He asked to reject it.

Moneybarn arranged for the van to be independently inspected and this took place in April 2022. The independent engineer reported that they could find no issue with the electric windows but had been unable to test the speedometer as the vehicle would not start and so no road test could be conducted. This was due to the battery being flat and, due to the way the van had been parked, jump leads could not be attached.

The independent engineer said that the door seals were split, and the doors needed adjustment. This was also the cause of the water ingress. A diagnostic interface check was carried out and a number of fault codes, some relating to electrical components, were identified.

The independent engineer said that Mr R had covered an additional 8,015 miles between the point of supply and the date of the inspection. And in light of the amount of use Mr R had had of the van they didn't consider the reported faults would have been developing or present when he'd acquired the vehicle.

However, as the van couldn't be started when this inspection was carried out Moneybarn arranged for a second one to be conducted. This was carried out in May 2022 after the battery had been replaced.

The second independent engineer was able to start the van and two messages were illuminated in the dashboard in respect of "*check emissions*" and "*check injection*". No loss of power was found, the speedometer worked as did the windows. No faults were detected with

the brakes. Four fault codes were found but the independent engineer said that the van drove as would be expected for its age and mileage.

At the time of the second inspection Mr R had driven a total of 12,065 miles in it since the agreement's inception. The independent engineer said that they didn't consider the faults found with the van would have been developing or present at the point of supply.

Moneybarn said that in light of the independent engineers' findings it would not be upholding Mr R's complaint.

Mr R was unhappy at Moneybarn's response and complained to this service. He said that the van had been in a poor condition and disagreed that the faults hadn't been present when he had acquired the van. He said that the law stated if faults were found in the first six months then the would be treated as having been present from the point of supply.

Our investigator didn't recommend that Mr R's complaint should be upheld. He said that due to the age and mileage of the van that it would be reasonable to expect that parts of the van had already suffered wear and tear and so there was a greater risk of repair and maintenance being required sooner than one which had been subject to less use.

Our investigator said he wasn't persuaded that there was anything wrong with the van other than expected wear and tear issues. He said that looking at the mileage undertaken by Mr R, then it would be reasonable to say that the faults would have developed fairly soon through that use and he accepted the evidence of the two inspections that they had not been developing or present at the point the van had been supplied to Mr R. Our investigator said he thought the van had been of satisfactory quality.

Mr R disagreed with our investigator's view. He said he obtained a report about the van two weeks after he had acquired it that set out the faults with the van which he disagreed had suddenly arisen. Mr R said under the law the van had to be faulty free and wear and tear were brakes and tyres not the issues that had been found with the van.

As the parties weren't able to reach an agreement the complaint has been passed to me.

### **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.

When looking at this complaint I need to have regard to the relevant law and regulations, but I am not bound by them when I consider what is fair and reasonable.

As the conditional sale agreement entered into by Mr R 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 their 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 that the quality of the goods is satisfactory if they meet the standard that 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 was around eight years old and had a mileage of about 112,500. So, issues of maintenance and repair would be expected over time. Mr R says that the report he obtained around two weeks after he acquired the van is evidence the van had these issues either developing or present at its point of supply. He also says that in law any fault that is found within the first six months of the contract are taken to have been present at the point of supply.

Under the Consumer Rights Act 2015 there is an assumption if a fault arises within the first six-months from the inception of an agreement then it was there from the point of supply. However, the retailer may be able to show this was not the case. Here Moneybarn is relying on two independent inspection reports which state that the faults with the van arose from wear and tear following Mr R acquiring it. Mr R says the report he obtained two weeks after acquiring the van contradicts the evidence provided by Moneybarn.

Looking at the diagnostic report from the garage Mr R visited, I can see this shows that fault codes were found and that two lights were illuminated on the dash for '*check emissions*' and '*check injector*'. But it doesn't provide any details about these codes nor does it provide any opinion as to whether these codes would have been present at the point of supply. I've also seen that the first independent engineer carried out diagnostics and appears to have noted some different codes as were the codes noted by the second independent inspection. The number of codes found also differed in number from each inspection.

I've also noted that some of the issues Mr R complained about with the van, such as the windows and speedometer, weren't then found to be faulty when it was inspected.

I don't think the diagnostic report provided by Mr R is one I can attach much weight to as opposed to the independent reports. The independent engineers explain in more detail what they found, and in the case of the May 2022 inspection, the van was taken for a test drive. I don't know anything about how the inspection was conducted by the garage Mr R used for the diagnostics. Mr R's report doesn't provide sufficient detail as to the nature of any faults and that's important because some faults, such as electrical ones, are ones that can occur without warning and so wouldn't have been developing or present at the point of supply of the van. Just because the van was found to have faults when looked at the end of February 2022 doesn't necessarily mean these faults were present at the point of supply. And looking at the evidence, I'm satisfied that Moneybarn has shown that the faults found weren't present or developing at the point of supply and resulted from wear and tear from Mr R's use.

As I am accepting the independent reports provided by Moneybarn as to the condition of the van, I therefore need to look at whether the van was as durable as would be expected by a reasonable person. I've seen the van was eight years old and had a mileage of 112,500 so I think a reasonable person would expect maintenance and repairs to arise within a short period. And I think, looking at the additional mileage Mr R added to the van's odometer, that it is reasonable to think faults could have occurred or been developing by the time it was inspected at the end of February 2022 which hadn't been developing at the point of supply. So, I think the van was as durable as would have reasonably been expected.

I appreciate this will be of disappointment to Mr R, but I'm not upholding his complaint. I think on the evidence I have seen that the van was of satisfactory quality at the point of supply. I also think the vehicle was reasonably durable when looking at its age and mileage and the use Mr R had from it when the faults arose.

**My final decision**

For the reasons set above I'm not upholding Mr R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 24 October 2022.

Jocelyn Griffith  
**Ombudsman**