

The complaint

Miss A complains about a car she acquired through a conditional sale agreement with Moneybarn No.1 Limited. The car has suffered a number of faults and requires a new engine and Miss A believes the car was not of satisfactory quality when she acquired it from Moneybarn.

What happened

Around September 2020 Miss A acquired a used car. The car was a little over 6 years old, had travelled around 55,000 miles by that time and cost around £6,000. Miss A took out a conditional sale agreement with Moneybarn for £6,000. This was to be repaid over 48 months, with repayments of approximately £219 each month. The total amount payable under the conditional sale agreement was £10,392.44.

Miss A says that shortly after taking receipt of the car she had some problems with it. Discussions were had with the dealership who initially supplied the car and some repair work was completed. Miss A refers to further problems with the car and additional work that was carried out, again by the dealership.

Miss A complained to Moneybarn about these issues and it responded to her complaint, setting out its position in its letter of 26 January 2021. Amongst other things, that letter explained that should Miss A remain unhappy with Moneybarn's response, she was able to bring her complaint to our service. But she should do so within 6 months of the date of that letter.

The complaint was not referred to our service and I understand Miss A continued to use the car. The car did then however suffer further issues and these resulted in the engine failing and the car being undrivable.

Miss A complained again to Moneybarn and then to our service. One of our investigators considered Miss A's complaint and explained that although there may have been initial issues with the car, as she had not referred her complaint to our service within 6 months of the 26 January 2021 letter, we could not consider those aspects of the complaint that were considered in that response. We could however consider the events, and ultimately faults, that had occurred after 26 January 2021 which included the more recent engine failure.

Having considered that issue though the investigator did not consider the complaint should be upheld. They referred to a number of things but in particular the inspection report that was commissioned by Moneybarn. This concluded that the engine would not start and appeared to have a lack of compression. The car would 'likely require a replacement engine' to resolve or repair matters. The inspection report referred to the age and mileage of the car when Miss A acquired the car, along with the time and mileage since the car was acquired. The inspector concluded that had the car been faulty, in relation to the engine failure, when Miss A acquired it the engine would have likely failed much sooner. And considering the car had travelled approximately 13,000 miles between Miss A acquiring the car and engine failure, it was unlikely that the fault was present at the point of sale.

The investigator ultimately concluded that there was insufficient evidence to demonstrate the car was not of satisfactory quality when it was supplied to Miss A and the fault was likely to have been a wear and tear issue. And because of this the investigator did not consider that Moneybarn was responsible for the costs of repairs and ultimately did not uphold the complaint for these reasons.

Miss A remained unhappy with the conclusions and referred to the previous problems she's had with the car and particularly the engine. She maintained that there had been problems from very shortly after she acquired the car and these related to the engine too. As she is entitled to do under our process, Miss A asked that an ombudsman review the complaint.

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 believe I will disappoint Miss A further as I have come to broadly the same conclusions as the investigator and I have not upheld Miss A's complaint.

Miss A acquired a used car through the conditional sale agreement with Moneybarn. Moneybarn is the owner of the vehicle, until such time as Miss A makes all the repayments under the agreement. As owner, Moneybarn is also the supplier of the car and as such it is responsible for the quality of the car at the point it was supplied. This is because the Consumer Rights Act implies a term around satisfactory quality into the conditional sale agreement and the car should therefore be of satisfactory quality when supplied to Miss A. I think it is important to note that Moneybarn's obligations around the quality of the car apply to the time of supply. They do not apply to the general upkeep and maintenance, servicing or more general faults and repairs that are often required with cars as they age and increase in mileage.

When considering whether goods are of satisfactory quality a number of things would usually be considered. In this instance, when considering the quality of a car, the age and mileage of the car at the time it was supplied are in my view key considerations. So for example, a brand new car would have different expectations to a used and considerably cheaper car. Those expectations would therefore be lower in a used or older higher mileage car, when compared to a new car.

In this instance Miss A was acquiring a used car that was over six years old and had travelled over 55,000 miles. As already mentioned above, a car of this age and mileage would not be expected to be in the same condition as a brand new car, which would have cost considerably more than the price Miss A paid. Considering the age and mileage here it would not be unreasonable to expect the car to be showing some signs of wear and tear. This would be in relation to its general overall appearance but also the underlying components, such as the engine. I appreciate Miss A had problems initially with the car but my consideration here is limited to the later engine failure, so I will not be making a finding on those initial issues. There is no dispute the car has suffered significant problems with the engine and that has resulted in the car being undrivable. Moneybarn is not however responsible for all issues or faults with the car over the 48 month period of the conditional sale agreement. Moneybarn's responsibility is to provide a car that was of satisfactory quality and if the car was not of satisfactory quality it could then be liable for any costs or losses Miss A incurs.

Having considered the evidence presented in this case I do not consider the car was not of satisfactory quality when it was supplied to Miss A. The engine had suffered a significant failure but this was not until Miss A had had the car for approximately 18 months and it had

travelled around 13,000 miles, on top of the 55,000 miles it had already travelled. On balance I think it more likely than not that the engine would have failed sooner if it was sold with an inherent defect and the fact that it took around 13,000 miles and 18 months to fail indicates, in my view, that the issues were unlikely to be present at the point of sale.

I have carefully considered what Miss A has said about the earlier problems and that she believes these are linked to the engine failure but I do not agree. I don't dispute there were issues and repairs to components related to the engine but there are many components linked to a car's engine, each performing different tasks, and the failure of one or more of those components would not always link to, or cause, a more catastrophic engine failure.

Miss A refers to a cooling system issue, replacement fuel pump and fuel injection relay box. I again accept that these are connected in some way to how the engine works and performs but I've not seen any evidence that links these issues with the later lack of compression and ultimate engine failure. I think it more likely that these were more isolated and unrelated to the later engine failure.

I also note the car was MOT'd and serviced in October 2021, having at that time travelled 63,591 miles. Had the car been experiencing problems with the engine at that time I think it would have been reasonably obvious to the technician who carried out the MOT and service. I have not seen any evidence to indicate any issues with the engine, other than routine maintenance, were identified at that time. This again suggests to me that there was not an ongoing problem with the engine, but its failure was an isolated issue, unrelated to the prior repairs Miss A refers to.

While I do have a great deal of sympathy for the position Miss A now finds herself in, facing considerable repair costs to the car, but from the evidence presented in this case I am not persuaded that the car was not of satisfactory quality when it was first supplied to Miss A. And because of this I do not consider there are grounds to direct Moneybarn to cover the costs of repairing or replacing the engine.

My final decision

I appreciate Miss A will be disappointed with the conclusions I have reached here but for the reasons set out above I do not uphold this complaint against Moneybarn No. 1 Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 28 December 2022.

Mark Hollands
Ombudsman