

The complaint

Mr K complains he received incorrect information from Moneybarn No. 1 Limited ("Moneybarn").

What happened

Mr K acquired a used vehicle in November 2019 by entering into a conditional sale agreement with Moneybarn.

In October 2021, Mr K was involved in a road traffic accident. He says his insurance company had written off the vehicle. He says one of the options the insurance company gave him was to keep the vehicle to repair it. So he says he contacted Moneybarn to check if that was okay and within his terms to do so. Mr K says he was told by Moneybarn that he could go ahead and get the car repaired himself and carry on paying his monthly repayments as long as he was happy with the repair.

Mr K complained to Moneybarn as he says he later found out that he shouldn't have repaired the car and was unhappy Moneybarn were requesting the return of it. Mr K says it was his only mode of transport and it has been difficult travelling around.

Moneybarn say that when Mr K contacted them following the accident, they explained that if he wanted to keep the car, the full early settlement figure of £6,160.20 would have to be paid before 10 November 2021. They say they also went on to explain that Mr K's insurance company would send them a settlement amount for the vehicle and that Mr K would be expected to pay any remaining amount between the settlement figure and the settlement amount for the vehicle. They also say they told Mr K in a further conversation that if he doesn't repay the early settlement figure in full, then he would not be able to retain the salvaged vehicle.

So, Moneybarn didn't think they did anything wrong and say they gave correct information regarding the insurance write off process.

Mr K, unhappy with Moneybarn's response, referred his complaint to our service. Our investigator found that Moneybarn didn't need to do anything further. She says, having relied on the call notes provided in the absence of having access to the call recordings, she thought Moneybarn hadn't given incorrect information to Mr K.

Mr K disagreed. So the case was passed to me for a decision. I asked Moneybarn to provide a copy of the call recordings from the time which I've received.

I issued a provisional decision on 18 January 2023 where I explained why I intended to not uphold Mr K's complaint. In that decision I said:

"Based on what I've seen so far, I intend to not uphold this complaint and I'll explain why below.

Where a vehicle is damaged, an insurer might decide it should be written-off (also known as a total loss). This might be because of the type of damage to the vehicle or because the insurer thinks it's uneconomical to repair it.

Under normal circumstances when an insurer settles a total loss claim under a motor policy it retains the salvage (which means it takes possession of the vehicle in its damaged state). However, there are occasions when the consumer wishes to retain the salvage.

I have firstly considered the terms Mr K would have agreed to when he took the finance.

The "Insurance" section of the terms and conditions, specifically section 5.10 says:

"In the event of the goods being declared a total loss, any insurance monies you receive... will be payable to us with immediate effect..."

The terms also say in section 5.9:

"If the goods are... considered a total loss by the insurer then the following amounts will become immediately payable:

all unpaid payments and other sums due that you should have paid under this Agreement before the total loss; and

the rest of the total amount payable under this Agreement less a rebate for early settlement as required by law."

I think Mr K would have understood from the terms the next steps in the event of a total loss to the acquired vehicle. But I also appreciate the terms are silent on the specific issue of salvaged cars and Mr K believes he was given incorrect information from Moneybarn when he notified them of his accident.

So, what I need to consider is whether Moneybarn gave Mr K incorrect information and told him that should he wish to keep the vehicle and repair it in the event his insurers considered it a write-off, then he could continue with his repayments under his agreement.

On 13 October 2021 Mr K contacted Moneybarn to inform them that he was told by his insurers that the vehicle is uneconomical to repair. Moneybarn said:

"...If they allow you to keep the vehicle... the finance itself needs to be settled first before you can do this... [the insurer] can pay us directly to get this settled. In the meantime, I have emailed you our early settlement figures. You need to forward the whole email to [the insurer]...your early settlement figures are £6,160.20...this is valid until 10 November."

Mr K goes on to say:

"...Do I have to pay the difference left?",

to which Moneybarn responded:

"Yes, any shortfall, any difference has to come from yourself and we can arrange an affordable, sustainable payment plan with you later on."

Moneybarn later on the call reiterated that Mr K would need to settle the agreement and finance if he wished to keep the salvage.

In a further call Mr K made to Moneybarn on 15 October 2021, Moneybarn asked Mr K for confirmation on whether the car was written off by the insurers as their checks weren't showing it as written off on their system yet. Mr K wasn't sure, and so Moneybarn explained to him that:

"... if the vehicle hadn't been written off and it is affordable for you to go ahead and fix the vehicle...you keep the vehicle...and then you maintain the payments on the agreement."

Moneybarn made it clear during the call that Mr K's options revolved around whether the car was written off or not. They explained, if it had been, then Mr K would need to settle the agreement. But if it hadn't been, then Mr K could continue with his monthly repayments if he chose to repair it himself.

At no point during the calls did Moneybarn say – if the vehicle was written off – that Mr K could get the car repaired himself and carry on paying his monthly repayments.

I have also seen a copy of the early settlement figure Moneybarn had sent Mr K following his initial call with them. Within this it states the early settlement figure and the deadline for which the full amount needed to be paid. The date of this letter is the same date when Mr K initially contacted Moneybarn about the accident.

I'm satisfied Moneybarn hasn't provided Mr K with incorrect information and what they told Mr K was consistent and in line with their terms. So I won't be asking Moneybarn to do anything differently in this instance."

I gave both parties the opportunity to send me any further information or comments they wanted me to consider before issuing my final decision.

Responses to the provisional decision

Neither Moneybarn nor Mr K responded to my provisional 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.

As I didn't receive a response to my provisional decision, I see no reason to depart from it.

So, in this instance, I won't be asking Moneybarn to do anything further.

My final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 3 March 2023.

Ronesh Amin
Ombudsman