

## **The complaint**

Mrs B is unhappy that a car supplied to her under a conditional sale agreement with Moneybarn No.1 Limited was of an unsatisfactory quality.

## **What happened**

On 30 August 2021, Mrs B was supplied with a used car through a conditional sale agreement with Moneybarn. The agreement was for £8,338 over 60 months; with monthly repayments of £222.94. At the time the car was just over five years old and had done around 54,000 miles.

In March 2022, Mrs B complained to Moneybarn. She said there were various issues with the car – a warning light staying on, the engine making a noise after it'd been turned off, and some cosmetic damage - that made her think the car had previously been involved in an accident. She was unable to take the car back to the supplying dealership, as they were no longer trading.

Moneybarn said that Mrs B hadn't provided any evidence to show that there were faults with the car that were present or developing when the car was supplied to her. And they didn't think the cosmetic issues affected the quality of the car. Because of this, they didn't uphold her complaint. Mrs B wasn't happy with Moneybarn's response, and she referred her complaint to the Financial Ombudsman Service for investigation.

Our investigator said he'd expect any significant cosmetic damage to be noticeable when Mrs B inspected the car, prior to the finance agreement being put in place. Or in the first few days after the car was supplied. But he said that Mrs B didn't raise these issues with Moneybarn until seven months after the car was supplied. So, he didn't think that Moneybarn were responsible.

The investigator also said that Moneybarn had asked Mrs B for evidence of a fault with the car, relating to the warning light and engine noise, but this hadn't been provided. He also said that the car had passed an MOT in January 2022, with no indication of any issues of the type Mrs B had described. Because of this, he didn't think that the car wasn't of a satisfactory quality when it was supplied to Mrs B.

Mrs B didn't agree with the investigator. She said that the car wouldn't now pass an MOT test because of the pre-sale accident damage, and there was tape behind the dashboard to hide the fact that a warning light was illuminated. Mrs B provided photos of the damage to the car, and of a stripped-down dashboard. She also provided the results of an MOT that had been done on 12 September 2022.

The investigator reviewed this evidence, but he said it didn't change his mind. Because of this, Mrs B has asked for an ombudsman 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.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mrs B was supplied with a car under a conditional sale agreement. This is a regulated consumer credit agreement which means we're able to look into complaints about it.

The Consumer Rights Act 2015 (CRA) says, amongst other things, that the car should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of goods, Moneybarn are responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history and its durability.

The CRA also says that goods must conform to contract within the first six months. So, where a fault is identified within the first six months, it implies that the fault was present when the car was supplied, unless Moneybarn can show otherwise. But, where a fault is identified after the first six months, it implies that it's for Mrs B to show that it was present when the car was supplied. So, if I thought the car was faulty when Mrs B took possession of it, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask Moneybarn to put this right.

While I've seen that Mrs B has raised issues about the quality of the car, the only evidence I've seen to support any issues are the photographs she's supplied, and the MOT history on the car. The photographs include some messages with a salesperson at the dealership in September 2021, where Mrs B raised the issue of the cosmetic damage to the car. But she hasn't raised the issue of the warning light, or the noises made by the car.

One of the photographs, taken on 6 September 2021, shows the tyre pressure warning light was illuminated. Mrs B has also provided details of the MOT that took place on 12 September 2022. At the time the car had done 63,628 miles and it failed for issues with the windscreen wipers, the alignment of a headlight, some wiring insulation damage due to cables rubbing together, and the engine management warning light (EML) being illuminated.

However, the MOT record shows that the car passed an MOT on 2 September 2021, after an issue with the numberplate light was fixed, with no advisories. This was around the time the car was supplied to Mrs B. Based on this, it's reasonable for me to conclude that the issues that caused the MOT failure in September 2022 developed after the MOT in September 2021.

While the issue with the windscreen wipers and the headlight alignment are normal wear and tear issues, and the rubbing of the cables to the point where the insulation has been damaged is an ongoing maintenance issue; Mrs B has said that the EML had been covered by tape inside the dashboard. So, she thinks the September 2021 MOT was "*illegal*" and that this was a longstanding issue. She's also provided photos of a stripped-down dashboard, which clearly show the EML being covered by tape on the inside of the dashboard.

I've compared the photo of the stripped-down dashboard, and the photo of the in-situ dashboard that shows the tyre pressure light illuminated. And they don't match. The in-situ dashboard has the warning lights on the rev-counter, and the speed indicator only goes up to 130. However, the stripped-down dashboard photographs have the warning lights on the speed indicator, which goes up to 140. What's more, the fuel indicator is on the bottom in the in-situ picture, and the top in the stripped-down picture.

Based on these two photographs, both supplied by Mrs B, I'm satisfied that the in-situ dashboard and the stripped-down dashboard are two completely different dashboards. And, as such, I can't agree that there was tape covering a warning light on the dashboard that's in-situ in the car supplied to Mrs B.

Because of this, I've not seen any evidence to show me there was any fault with the car that was either present or developing when it was supplied to Mrs B.

Turning now to the cosmetic damage, the photos supplied by Mrs B (which were taken on 15 September 2021) show obvious damage to the front of the car. Section 9 of the CRA says:

*"(3) The quality of goods includes their state or condition; and the following aspects (among others) are in appropriate cases aspects of the quality of goods – (b) appearance and finish [and] (c) freedom from minor defects ...*

*(4) The term mentioned [above] does not cover anything which makes the quality of goods unsatisfactory – (a) which is specifically drawn to the customer's attention before the contract is made [or] (b) where the consumer examines the goods before the contract is made, which that examination ought to reveal."*

It's not disputed that Mrs B purchased the car from a dealership. While it's not possible for me to know what was, and wasn't, brought to Mrs B's attention by the dealership; the damage to the car is obvious from the photographs. As such, if it was present when the car was supplied to Mrs B, it would've been revealed by any visual examination she made of the car. Because of this, this damage doesn't make the car of an unsatisfactory quality when it was supplied to Mrs B.

Taking all of the above into consideration, and while I appreciate this will come as a disappointment to Mrs B, I don't think the car was of an unsatisfactory quality when it was supplied to her. And I won't be asking Moneybarn to do anything more.

### **My final decision**

For the reasons explained, I don't uphold Mrs B's complaint about Moneybarn No.1 Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 9 February 2023.

Andrew Burford  
**Ombudsman**