

## **The complaint**

Mr A complains Moneybarn No. 1 Limited (Moneybarn) provided him with a car which he doesn't believe was of satisfactory quality.

## **What happened**

In November 2020, Mr A entered into a 60 month conditional sale agreement for a used car. The car's cash price was £11,000, it was over four years old and had covered over 67,000 miles. Mr A was required to pay monthly instalments of £337.

Approximately a week after he received the car, Mr A reported faults with the flywheel, clutch, gearbox and air mass sensor. He said the car was repaired under warranty and it was returned to him after a few weeks. However he complained issues persisted. Mr A requested to reject the car. A further repair was carried out to the turbo, vent pipe and O2 sensor in January 2021.

In February 2021, an independent inspection was carried out and the engineer couldn't find the faults as reported by Mr A, he said the car performed as it should. However the engineer said fault codes resided within the diagnostic log which needed further investigation. The report concluded due to the time and mileage since Mr A acquired the car, the faults wouldn't have been present at supply.

Since then, Mr A has reported a number of issues with the car such as faults to the electrical control unit, actuator, ECR valve, etc. A number of repairs have been carried out, some under warranty, some paid by Mr A.

In July 2021, another independent inspection was carried out. It found a fault with the mass airflow meter and a number of fault codes stored in the electrical control unit. It concluded the faults wouldn't have been present at supply but they were due to wear and tear given the age and mileage of the car. It also said the stored fault codes required further investigation.

In response to Mr A's complaint, Moneybarn said they couldn't say whether the faults were present at supply as the car had been repaired. Nevertheless they offered the following to resolve the complaint:

- Refund the car hire - £238;
- Goodwill payment towards the repairs and diagnostics - £150;
- Refund three instalments, totalling £1,012 (to be applied to the account directly);
- Pay £250 compensation;
- Upon proof of evidence, they would consider costs for taxi rides, diagnostics and engine treatment.

Our investigator recommended the complaint wasn't upheld. Based on the evidence, they weren't persuaded the faults were inherent or developing at supply. They believed the car was likely of satisfactory quality. Mr A disagreed.

In October 2022, I issued my provisional decision. I said:

*"Mr A acquired a car under a regulated credit agreement. Moneybarn was the supplier of the goods under this type of agreement meaning they are responsible for a complaint about the supply and the quality of the car.*

*The Consumer Rights Act 2015 (CRA) is relevant to this complaint. It says that under a contract to supply goods, there is an implied term that "the quality of the goods is satisfactory". To be considered "satisfactory", the goods would need to meet the standard that a reasonable person would consider satisfactory – taking into account any description of the goods, the price and all the other relevant circumstances. In a case involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage at the time of supply, the car's history, safety, durability, etc.*

*Mr A was supplied with a used car that was over four years old and had travelled over 67,000 miles. For used cars, it's reasonable to expect parts may already have suffered notable wear and tear when compared to a new car or one that is less travelled.*

*Issues with the flywheel, clutch, gearbox and air mass sensor*

*Mr A said immediately upon taking delivery of the car, it experienced faults related to the flywheel, clutch, gearbox and air mass sensor. I note Moneybarn's comments that there isn't enough evidence to prove the same because repairs had been carried out but I disagree. I've seen job cards showing repairs were carried out to these car parts under warranty in December 2020. Based on this evidence, it's clear there were faults with the car. Given these faults were reported within a matter of days of supply, I find it's more likely than not they were present or developing at supply. So I'm not satisfied the car was of satisfactory quality meaning there was a breach of contract.*

*Where this happens, I expect repairs to be carried out and at no cost to the consumer. In this case, I can see that happened. Repairs were carried out in a reasonable time frame and under warranty so at no cost to Mr A. While these repairs were carried out, Mr A said he was left without the car meaning he had to make alternative arrangements including taxi rides and hiring cars. Moneybarn agreed to reimburse the cost of the hire cars (£238), make a goodwill payment of £150 for the costs towards repairs and diagnostics and pay £250 for the trouble and upset caused. It also agreed to refund three instalments (totalling £1,012), which would be credited to the account as it was in arrears. They also said upon evidence of the other expenses such as taxi fares and engine treatment, they would consider it. In light of the costs and inconvenience incurred as a result of the car not being of satisfactory quality at supply, I believe Moneybarn's resolution was a fair one. From my understanding, these payments and credits to the account have already been made by Moneybarn.*

*Faults with the turbo, vent pipe and O2 sensor*

*I'm aware following the repair in December 2020, Mr A complained faults remained and he raised his right to reject the car. However it appears he arranged further repairs in January 2021 for the turbo, vent pipe and O2 sensor.*

*Based on the job cards, it's clear there were further faults. Although I accept that to be the case, I must decide whether these faults were present or developing at the point of supply. As mentioned, satisfactory quality also covers durability which means that the components within the car must be durable and last a reasonable amount of time – but exactly how long will depend on a number of factors.*

*In this case, I must take into account that these were new faults and there's not enough evidence for me to safely say they were linked to the earlier faults which made the car of unsatisfactory quality. Moreover, by the time of the repair in January 2021, I note Mr A had covered in excess of 6,000 miles since supply. I consider that to be a significant amount. The turbo, vent pipe and O2 sensor are all car parts subject to wear and tear through use. Given the number of miles Mr A was able to cover, I'm not persuaded the repairs required in January 2021 meant the car wasn't durable therefore another reason why it wasn't of satisfactory quality. I'm not convinced Mr A would've been able to cover that amount of miles if these faults were present at supply. For these reasons, I'm not persuaded the faults with the turbo, vent pipe and O2 sensor were present at supply.*

*In February 2021, Moneybarn arranged an independent inspection and given the issues, I believe that was a reasonable course of action for Moneybarn to take. I've carefully considered the findings of the report. I note the car had travelled over 7,000 miles at the time of the inspection. The engineer was unable to replicate the issues, he said the car was fault free but reported fault codes within the diagnostic log.*

*On that basis, the faults with the flywheel, clutch, gearbox and air mass sensor which I found made the car of unsatisfactory, had been resolved by the repair in December 2020 and was no longer present by the time of the inspection. Based on the findings of the independent inspection, there's no indication the repair in December 2020 had failed. So while I accept Mr A requested to reject the car, I can't say Moneybarn acted unfairly by not agreeing to it as there was no evidence the car remained of unsatisfactory quality. This is further supported by Moneybarn's contact notes in March 2021 which suggest Mr A told them that the repairs had fixed the issues but he wanted compensation for his out of pocket expenses.*

#### *Other issues*

*I understand a couple of months later in May 2021, Mr A reported further issues as the engine management lights were displaying. Moneybarn arranged a second independent inspection in June 2021. By that time, the car had covered over 28,000 miles since supply and it had been in Mr A's possession for around seven months. The engineer found a fault with the mass airflow meter and there were fault codes stored but it concluded it was due to wear and tear.*

*I note Mr A disagrees with the findings of the two inspection reports but the engineers are qualified car mechanics who have the knowledge and expertise to inspect cars so it's reasonable for me to rely on their findings. Here, two separate and independent engineers*

*have examined the car at different points in time. For these reasons, I'm persuaded by their findings.*

*Mr A has provided comments from a repair garage about the wiring loom and diesel entering into it via the fuel pressure sensor. However it appears this information was provided in July 2021 and the car had already covered a significant amount of miles at that point (over 28,000 miles since supply) and it had been in Mr A's possession for some time. So I'm not persuaded these comments meant these faults were present at supply and it meant the car was of unsatisfactory quality.*

*Based on the timeline of events and what's happened, if the car remained of unsatisfactory quality, I'm not convinced Mr A would've been able to cover the number of miles that he did. Overall, I find the car wasn't of satisfactory quality when it was supplied due to the faults with the flywheel, clutch, gearbox and air mass sensor. However I'm satisfied these were successfully repaired in December 2020. Moneybarn has proposed a resolution which I consider to be fair in the circumstances so I won't be asking them to reject the car or do anything further to put things right. In relation to the other faults with the car, I consider them to be as a result of wear and tear through use.*

*I appreciate Mr A will be disappointed with my outcome and based on the information and evidence he's provided, it's clear he feels strongly about the matter. I'm sorry to hear the car hasn't performed as he expected but for the reasons outlined above, I find Moneybarn has done enough to put things right".*

#### *Response to the provisional decision*

Moneybarn didn't provide a response. Mr A disagreed with the findings, in summary he said:

- The provisional decision failed to consider the evidence that the car broke down immediately after it was supplied due to the flywheel, gearbox, clutch, etc;
- The car was in and out of garages for repair and he had to use taxis and hire cars to commute to work;
- He provided evidence from the warranty company about the faults and the repairs that were carried out under warranty;
- He had asked to reject the car and/or for a replacement but Moneybarn never responded;
- The turbo leaked into the wiring system and this will need to be replaced, he has provided confirmation of the same.

#### **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.

I thank Mr A for his further comments and I understand he's disappointed by my findings. I can assure him that I've carefully taken into consideration all the information and evidence he's provided along with that provided by Moneybarn. Having considered Mr A's response, I don't consider he has provided any new information or evidence that would change my overall outcome. I've already addressed the points he's raised in my provisional decision so I won't repeat them again here.

On the basis I don't consider I've been provided with any further information to change my decision I still consider my findings to be fair and reasonable in the circumstances. Therefore, my final decision is the same for the reasons as set out in my provisional decision.

### **My final decision**

For the reasons set out above, I've decided not to uphold Mr A's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 6 December 2022.

Simona Charles  
**Ombudsman**