

The complaint

Mr S complains about a car he acquired under a conditional sale agreement with Moneybarn No. 1 Limited. He is represented in this complaint by his mother, Mrs S.

What happened

In August 2021 Mr S acquired a used car under a conditional sale agreement with Moneybarn. Moneybarn is therefore liable for any faults which the car had at that time, allowing for fair wear and tear. The car was nearly eight years old, and the mileage was 78,089 miles. Its cash price was £7,597.

Since then, the car has been taken to a number of garages at various times for work to be done on it. (I will list these in the next section.) Following a repair in May 2022, Mr S had had enough, and he complained to Moneybarn. In July 2022, his mother emailed Moneybarn to ask if the car could be returned and the agreement ended, and at around that time she referred this complaint to our service on her son's behalf.

Mrs S also provided evidence that in 2019 there had been some fault codes which had been traced to a blocked exhaust, which had cleared when the exhaust was cleaned out. She said this proved that there had already been problems with the diesel particulate filter (DPF) before her son got the car, and that the DPF should have been replaced under warranty.

Moneybarn did not agree that it was liable for anything. It said all of the problems were the result of reasonable wear and tear, and did not indicate that the car was faulty when it was sold. In particular, the DPF has to be emptied or burned off from time to time, because soot gradually builds up in it. Moneybarn pointed out that Mr S had had the car for nine months and 10,000 miles before complaining about it, and that the car had passed its MOT in August 2021 and again in 2022 (after some defects were fixed on both occasions), showing that it was roadworthy. It said the warranty was nothing to do with it, and any issues about that should be raised with the warranty provider (a third party).

Our investigator did not uphold this complaint. He agreed with Moneybarn that the problems were normal wear and tear. He said that since the DPF repair in 2019, the car had been driven some 20,000 miles with no issues, and so this did not indicate that there had been a fault with the DPF at the relevant time, or that there was any link between what happened in 2019 and the DPF being cleaned again in May 2022. He said Moneybarn was not responsible for the warranty.

Mr and Mrs S did not accept that opinion, and they asked for an ombudsman's decision. They said that Mr S had been mostly driving on motorways and so this should have prevented the DPF from clogging.

Chronology

A timeline of relevant events, with the car's mileage where known, follows.

- 10 December 2019: previous owner took car to garage. Fault codes indicated a

- blocked exhaust, which was cleared. 60,248 miles.
- 9 August 2021: Mr S signed the agreement. 78,089 miles.
- 10 and 11 August 2021: MOT: failed first time due to worn brake disc and suspension. Defects fixed and further MOT passed with no advisories. Mrs S told me that her son collected the car on the day of this MOT. 78,100 miles.
- 19 August 2021: Repair: wheel bearing, ABS sensor, rear wiper arm replaced.
- 5 October 2021: Repair: brake shoes, brake cables replaced. Following this repair, it is alleged that the brakes were still faulty and that this caused Mr S to have an accident, causing damage to the boot while reversing.
- 17 November 2021: Repair: replaced two tubeless valves, wheel balance, changed front tyres. 80,115 miles.
- 4 May 2022: Repair: cleaned DPF, diagnostic check, removed fault code, road test.
- 11 May 2022: Repair: replaced front offside wheel bearing and CV boot. (Complaint follows.)
- 3 August 2022: MOT: failed first time due to engine malfunction indicator light, and a lamp not working. Defects fixed and MOT passed with one advisory (a worn CV boot). 88,141 miles.
- 7 September 2022: Repair: new exhaust.
- 5 October 2022: Repair: brake pads replaced, wheel adjustment, stabilizer link. 90,354 miles.

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.

Not counting the MOTs, Mr P had to take his car to a garage seven times in fourteen months, during which period he was driving on average less than 1,000 miles a month.¹ So I can certainly understand why he is dissatisfied with the car and wants to be rid of it.

However, I can't conclude that the car must have been faulty when Mr S collected it just because of the number of times it has been sent back to a garage. I have to examine what happened on each occasion.

The fact that the car passed its MOT on 11 August 2021, with no advisories, is strong evidence that the car was of satisfactory condition at the time. (That is not to say that it was in satisfactory condition two days earlier, when Mr S signed the agreement, and of course it failed its MOT on 10 August, passing on the second try after a brake disc and the suspension were replaced. But Mr S was not charged for that – the invoice names the dealer as the customer – and he collected the car afterwards, and so I do not consider that to be a fault for which Moneybarn is liable.)

But since the car had to be taken back to the same garage only eight days later, and three parts had to be replaced – including the wheel bearing – I don't think that the MOT is conclusive in this case. Although these issues are probably just wear and tear, which I would not normally consider to be a defect in a car of this age and mileage, I do not think it is satisfactory to sell a car with these problems (and they certainly must have already been present when Mr S picked up the car). However, the invoice for this work indicates that it was carried out by the dealer at no cost to Mr S, so I think that was enough to resolve the problem; it is not a reason to allow him to reject the car now, given that he did not reject it at

¹ Four garages carried out these repairs. One had the car in August and October 2021, another in November 2021 and October 2022, a third both times in May 2022, and the fourth in September 2022. (A fifth garage carried out the repair for the previous owner in 2019.)

the time. In coming to that view, I have taken into account the Consumer Rights Act 2015, which says that the seller should normally be allowed one attempt to repair defective goods before being allowed to hand them back.

The next repair was two months later, in October, and that involved the brakes again. But that does not mean that the brakes were not dealt with properly during the MOT in August. Then, it was a brake disc which was replaced; in October, it was the brake shoes and brake cables – different components. It is alleged that this further repair was not carried out properly, since Mr S damaged his car shortly afterwards, an accident which he attributes to the brakes. But I do not accept that, because in May 2022 the car was road tested by a different garage, and no problem was reported with the brakes. And I am in no position to ascertain the cause of Mr S's accident. So on the balance of probabilities, I am satisfied that this repair was carried out competently. Even if I took a different view about that, Moneybarn would not have been responsible. Moneybarn would only be liable for the brakes if they were defective when Mr S acquired the car, and as the brake components are parts which would inevitably wear over time, I don't think I could conclude that these parts were defective rather than merely worn. That is to be expected in a car which was approaching 80,000 miles.

The next repair, in May 2022, concerned the DPF. That is two and a half years – and 20,000 miles – after the exhaust sensor and exhaust pipe were cleared in December 2019. So I don't think this is evidence that proves the DPF had a problem when Mr S acquired the car. And if the DPF had been faulty in August 2021, I don't think it would have taken nine months for it to show.

A few days later, the same garage replaced a bearing and a CV boot. These are also parts which are susceptible to wear and tear, and nine months after Mr S got the car I don't think Moneybarn is responsible for them.

In August 2022 the car passed its MOT, after a couple of faults were fixed, neither of which seem to relate to any previous issue. And the subsequent repairs, being more than year after Mr S began driving the car, do not suggest to me that the parts which were repaired were defective back then.

So, while I sympathise with Mr S over the trouble he has had with this car, I am satisfied that the car was of satisfactory quality when it was supplied to him, and so I do not require Moneybarn to do anything.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 21 April 2023.

Richard Wood
Ombudsman