

The complaint

Miss T complains that a car she has been financing through an agreement with Moneybarn No. 1 Limited, trading as Moneybarn, was of unsatisfactory quality and had been misrepresented to her.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead, I'll focus on giving my reasons for my 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.

I know it will disappoint Miss T, but I agree with the investigator's opinion. I'll explain why.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Miss T acquired her car under a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

Satisfactory quality

The Consumer Rights Act (2015) is the relevant legislation. It says that the car should have been of satisfactory quality when supplied. If it wasn't then Moneybarn, who are also the supplier of the car, are responsible. The relevant law also says the quality of goods is satisfactory if they 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 like this which involves a car the other relevant circumstances would include things like the age and mileage at the time the car was supplied to Miss T. The car here was about nine years old and had already completed about 106,000 miles.

An old car with a high mileage will not be expected to be as good as a newer car with a low mileage, but it should still be fit for use on the road, in a condition that reflects its age and price.

The relevant legislation explains that if the fault occurs within the first six months we are to assume it was present at the point of supply, when Moneybarn were responsible for the car's quality. But here the timing belt failed about a year after Miss T took receipt of the vehicle and in that time she had managed to drive more than 9,700 miles in it. If the timing belt was breaking when the car was supplied I think the fault would have become evident sooner. I'm not therefore persuaded the car was supplied in an unsatisfactory condition.

Miss T has explained that the timing belt should have been replaced at 100,000 miles but as it wasn't I don't think the car could be considered not to have been suitably durable and, therefore, of unsatisfactory quality, either.

Misrepresentation

Section 56 of the Consumer Credit Act explains that the pre-contractual acts or omissions of the credit broker or supplier can be deemed to be the responsibility of the lender. That's relevant when I consider whether the agreement was misrepresented to Miss T.

Miss T says she was told by the broker that servicing was up to date before she took receipt of the car. If Miss T was provided with a false statement and if I was persuaded it was likely that false statement was a significant factor that induced her to enter into the agreement, I may think the car, and the associated finance agreement, had been misrepresented to her. But Miss T hasn't been able to provide any further evidence to corroborate her view that the car was provided with a full service history. In those circumstances, I don't think it would be fair to suggest I have sufficient evidence to support that view.

Ultimately, while I have a lot of sympathy for Miss T's financial and transport difficulties, I don't think it would be fair to suggest Moneybarn need to take any action here.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 4 January 2024.

Phillip McMahon
Ombudsman