

The complaint

Mr A complains that a vehicle he acquired with credit from Moneybarn No 1 Limited wasn't of satisfactory quality.

What happened

Mr A entered into a credit agreement with Moneybarn in November 2021 to acquire a used van. The cash price of the van was £11,940 and the total amount owing under the agreement (including interest and fees) came to £22,013.03. This was to be paid with an advance fee of £114, followed by 59 monthly instalments of £371.17.

The credit to buy the van was granted under a conditional sale agreement meaning Mr A would own the van when the credit had been repaid. Moneybarn was the owner until that point and Mr A was, in essence, paying for the use of it. As owner, Moneybarn was responsible for the quality of the van. The van was almost four and a half years old and had travelled 98,114 miles when supplied to Mr A, as per the MOT on 17 November 2021.

Mr A said he experienced problems with the van shortly after he took possession. He needed to buy a new battery within days (22 November) and a new light cluster in early December because neither the rear lights nor the fog lights were working and there were no bulbs, bulb holders or wires in the unit. Mr A said that he installed the cluster himself, but the lights still didn't work so he returned the van to the dealer sometime between the 7 and 11 of December and it was repaired the same day.

The new battery Mr A had installed went flat on 11 December and again on the 20 December before being replaced by the supplier. Mr A also had trouble with the van keys during this time as it seems neither of the two he had would manually unlock the door and so he needed to call out a mobile mechanic to help him get into the van each time the battery failed. Mr A said that around this time the van was getting difficult to start and was very rough when idling.

Mr A said that on 24 January 2022 he couldn't start the van – he said that the battery power seemed to be there but the engine wasn't turning over. Mr A said he tried several solutions which included replacing a glow plug, the starter motor and starter amplifier. These first two repairs were carried out by mobile mechanics on the 8th and 12th of February respectively. The third repair was carried out by a local mechanic later in March who found that the starter amplifier had failed. It was only when the starter amplifier and wiring harness were replaced that the van started again.

Mr A said he found out during this time that the AdBlue system might have been deleted. (This is an emissions control technology that can be disabled but might render the vehicle illegal to drive on a public road in the UK because of the resulting level of emissions.) Mr A told us that the second mechanic suspected that the AdBlue had been deleted and told him he should top it up to confirm. Mr A told Moneybarn on 22 February that he had topped up the AdBlue fluid in the van but the van still didn't start. He was concerned he'd been supplied with a van that might not be road legal and would likely fail an MOT. Mr A said that when the local garage replaced the starter amplifier the mechanic also

mentioned that the AdBlue had been deleted.

Moneybarn arranged for an independent inspection of the van in late June 2022. The report noted that while the engine started it had an erratic idle. The report also noted a fault in the glow plug module and evidence of a possible disconnection of the AdBlue system which meant the system wasn't functioning correctly. It said "We would conclude that the vehicle does display evidence of possible disconnection of the AdBlue system and therefore the system is not functioning correctly. This may be related to the glow plug module fault codes however, the vehicle clearly would not have been in this condition at purchase, with the engine idle running roughly and as such, the selling agent would not have liability." The mileage on the report was 103,896, so the van had travelled around 5,800 miles since supplied.

Moneybarn sent Mr A a final response to his complaint on 7 July 2022. It said that it appeared from the report that the issues raised were of an electrical wear and tear nature which occurred over time, because of normal use of the vehicle. It didn't uphold Mr A's complaint.

Mr A was unhappy with this response and referred his complaint to us. Mr A wished to reject the van because it wasn't roadworthy. He said that he wasn't confident that the MOT in November 2021 had been carried out correctly because the AdBlue issue and the problems with the rear and fog lights should have been picked up then. Mr A also doesn't trust that the mileage recorded on that MOT was correct and feels it may be higher.

One of our investigators looked into what had happened but didn't recommend that the complaint be upheld. They agreed that there were faults with the van, but didn't have persuasive evidence to conclude that the AdBlue system had been disconnected prior to the van being supplied to Mr A or that the MOT in November 2021 had been incorrectly carried out. They found that the issues Mr A experienced with the van were, on balance, more likely to be due to reasonable in service wear and concluded that the van was of satisfactory quality when supplied.

Mr A didn't agree with this conclusion and asked for his complaint to be passed to an ombudsman to decide. I issued a provisional decision on 4 August 2023 explaining why I thought Mr A's complaint should be upheld in part. I shared the information I'd relied on and allowed time for comments or any new information from either party. Moneybarn accepted my provisional decision and I haven't had a response from Mr A.

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 reviewed everything again and having no new information to consider, I remain of the view that Mr A's complaint should be upheld in part. I'll set out my reasoning again in this final decision.

As I'd said in my provisional decision, the Consumer Rights Act (CRA) 2015 is relevant to this complaint. This act implies a term into any contract to supply goods that those goods will be of satisfactory quality. Satisfactory means what a reasonable person would expect, taking into account the description of the goods, the price and any other relevant circumstances. The quality of the goods includes their general state and condition and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability. The presence of a fault doesn't necessarily mean that the goods provided were of

unsatisfactory quality – it depends on the circumstances. In this case the relevant circumstances would include the age and mileage of the van, for example.

The CRA gives customers solutions if they find themselves with faulty goods. They can reject the goods if the fault happens within 30 days, or have the goods repaired or replaced. Outside of this period the supplier has the chance to repair the goods before anything else happens. The supplier must either repair or replace the goods within a reasonable time and without significant inconvenience to the customer (Section 23). If this doesn't solve the problem and it's found that the fault was there or developing when the goods were supplied, then a consumer might be entitled to other solutions such as a price reduction or a final right to reject the goods.

I've considered whether or not the faults Mr A experienced with the van were present or developing when it was supplied to him and, if they were, does this mean the van was of unsatisfactory quality?

Let me begin with Mr A's concerns about the validity of the MOT carried out on 17 November 2021 before the van was supplied to him. It is beyond my remit in this informal dispute process to make a finding on the validity or legality of the MOT carried out prior to supply – that would be a matter for the DVLA to consider. It is of course possible that mistakes are made during testing which later come to light and I have borne this in mind when making my decision.

Mr A doesn't trust that the mileage recorded on the 17 November MOT was correct. He told us that the van may have travelled more miles than would be accepted on a finance agreement with Moneybarn, which is 120,000. I've summarised below the information I have about the van's mileage.

82,237 - taken from an invoice provided by Mr A dated 5 December 2019
93,487 - taken from the MOT record 25 July 2020
97,000 - taken from the conditional sale agreement dated 12 November 2021
98,077 - taken from the sales invoice 15 November 2021
98,114 - taken from the MOT record 17 November 2021
102,000 - Mr A's recollection of the mileage in January 2022
103,896 - taken from the independent inspection report dated 30 June 2022

Mr A recently told us that the van had 99,954 miles on the odometer when he received it, which is clearly at odds with the mileage recorded on the sales invoice, the agreement and the MOT. I haven't seen evidence of this mileage and think if it was as Mr A remembers then it's more likely than not that he would have raised this at the time. I haven't investigated this further or made any finding on this point.

Early problems

Mr A said he experienced a number of faults with the van early on – it needed a replacement battery and a rear light cluster installed within the first month. The battery was replaced again in December 2021 and appears to have been working since, though Mr A mentioned that around that time the van became difficult to start and was rough when idling.

Mr A also said he had trouble with the van keys during this time as it seems only one would automatically unlock the van and neither of the two he had would manually unlock it. This meant he needed to call out a mobile mechanic to help him get into the van each time the battery failed. Mr A said he spoke to the dealer about this but I understand this issue hasn't been resolved.

Notwithstanding the age and mileage of the van, I would expect it to be free from defects immediately after supply. I don't think it's reasonable that Mr A would have to replace the battery and a light cluster so soon after he acquired it. Not only that but I can see that an issue with the keys would compound such problems and cause great inconvenience.

That said, as the issue with the battery hasn't reappeared and the light cluster has been installed, I don't think these issues mean that Mr A can now reject the van on the basis that it wasn't of satisfactory quality when supplied. I do think it's fair that Moneybarn reimburses Mr A for the cost of these replacements and repairs and acknowledges the inconvenience these caused to him. There isn't a specific calculation for awards to compensate for the emotional impact of errors. We have an approach (which is set out on our website) which I've followed here.

Problems in January 2022

It seems that when the van broke down in January 2022, it wasn't immediately clear what caused the issue. Mr A told Moneybarn in February that he'd tried to speak to someone at the selling dealership but he kept getting fobbed off and his calls hadn't been returned. At that time the van wasn't driveable. Mr A eventually got the van started again. The independent inspection in June 2022 picked up on these issues – it mentions a rough idle and a fault with the glow plug.

Clearly, there were faults with the van which Mr A had to deal with within a short time of acquiring it. The van was almost four and a half years old and had travelled over 98,000 miles. It's not unreasonable that there may have been issues with it that wouldn't be expected in a new van, such as parts needing to be replaced through general wear and tear.

Mr A said that from memory the van had travelled about 102,000 miles when it broke down in January 2022 so it seems he had driven it at least 4,000 miles (based on the recorded mileage of around 98,000 at the start of the agreement). Mr A also said that he didn't really use the van beyond January and that the other miles on it were getting it to a garage to have it fixed. I've borne in mind that memories can fade with time and the mileage recorded on the independent report in June was 103,896, almost another 2,000 miles.

I know that this will be a disappointment to Mr A but I can't consider that the van wasn't of satisfactory quality when it was supplied on the basis that he needed to replace the starter amplifier. I appreciate he had some other repairs carried out too, the glow plug and the starter motor. I don't know whether these helped to get the van going again - the independent inspection noted that a fault had existed / remained with the glow plug. Again, these are replacements that aren't outside of what could be expected in a van of this age and mileage. So I can't hold Moneybarn liable for the cost of these repairs.

The AdBlue issue

The independent inspection in June 2022 concluded that there was evidence of possible disconnection of the AdBlue system and therefore it wasn't functioning correctly. This is the earliest independent evidence I've seen of there being an issue with the AdBlue, and I'm satisfied that the AdBlue system had been deleted / wasn't functioning by then. The question is when might this have happened?

Mr A told us that he realised that there was something wrong with the AdBlue when this was brought to his attention in February 2022 on two separate occasions. Mr A told Moneybarn that he added 44 litres of AdBlue to the van but this didn't solve the problem of it not starting. He later corrected this to say that he added four and a half containers which actually had five litre capacity not ten. So Mr A added about 22 litres altogether, a full tank as I understand it.

As mentioned, the van had travelled about 4,000 miles at this point. I understand this isn't an unfeasible distance to cover without needing to top up the AdBlue but it seems likely that the system, if working correctly, would have warned Mr A about topping up before then.

The van passed its MOT on 17 November 2021 with no advisories as shown on the government website. Mr A says that the AdBlue system is a legal requirement for driving on public roads and so the van wasn't roadworthy when supplied. Mr A provided a photo of part of an MOT certificate which shows that the van passed a fast track smoke test and highlighted that the document didn't show any readings. As mentioned, Mr A is concerned that the MOT wasn't carried out correctly and is invalid. The document he provided is dated the 25 November 2021, about a week later, and doesn't have an MOT number so I'm not persuaded that this supports Mr A's view.

It is possible that things happened as Mr A described. He has been consistent in what he's told us about his experience of discovering that there might be a problem with the AdBlue, and that topping it up didn't solve the problems he was having with the van. However, it is also possible that the van didn't have these issues when supplied and was later damaged or altered, unbeknownst to him. Mr A hasn't been able to provide evidence, such as a mechanic's report for example, to support what he's said about when and how he discovered the AdBlue issue.

Where evidence is lacking or incomplete I have to make a fair and reasonable decision based on what I think most likely happened. I'm sorry to disappoint Mr A but I don't have enough evidence to be able to say that the van was supplied to him with the AdBlue system disabled. And I'm afraid what he's told us about his experience doesn't persuade me otherwise. I can't therefore conclude that the van wasn't of satisfactory quality when it was supplied and that he should be able to reject it on that basis.

In summary

I've found that there were some issues with the van when it was supplied which Mr A paid to sort out. Moneybarn should provide compensation for these. I've found that later issues were likely due to wear and tear and I can't hold Moneybarn responsible for these. I don't have enough information to fairly conclude that the problem Mr A discovered with the AdBlue was there when the van was supplied to him and ultimately wasn't persuaded that this was what happened.

I understand that Mr A didn't maintain his monthly repayments and the agreement was terminated in August 2022. Mr A told us that Moneybarn has yet to collect the van and it's causing him a problem. He's also told us that his experience has caused him huge stress and is mentally draining. I am sorry to hear how difficult things have been for Mr A and also that I am not able to provide the outcome he was hoping for.

Putting things right

As mentioned above Mr A had to replace some parts shortly after the van was supplied. Moneybarn should now pay Mr A:

- an amount of £124 being the cost of the replacement battery in November 2021;
- an amount to cover the cost of the replacement light cluster part and fitting if Mr A can provide a receipt or proof of purchase / repair;
- add 8% simple interest per year* on all refunded amounts from the date of payment until the date of settlement;

- an amount of £200 to reflect the distress and inconvenience these matters caused him.

My final decision

For the reasons I've set out above, I am upholding Mr A's complaint about Moneybarn No 1 Limited in part and it needs to put things right as I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 27 September 2023.

Michelle Boundy
Ombudsman