

The complaint

Mr M is unhappy with a car supplied under a conditional sale agreement taken with Moneybarn No. 1 Limited.

What happened

In December 2021 Mr M acquired a used car, taking a conditional sale agreement with Moneybarn. The car cost £11,995 and Mr M paid a deposit of £4,000. The car had a mileage recorded of 48,671 and was just over nine years old.

Unfortunately, Mr M said the car broke down in January 2022. He complained to Moneybarn about the situation.

The same month an independent inspection of the car took place, where the mileage was recorded as 49,435. This noted, in summary, that the engine was running poorly due to a misfire, with an engine management light ('EML') illuminated. It said it believed there was an issue with 'cylinder 4'.

Moneybarn issued its final response in March 2022. This said, in summary, that the car had been repaired free of charge. Moneybarn offered to reimburse Mr M's monthly payments for January, February and March and pay him £175 for the distress caused.

In September 2022 Mr M says the car broke down again. A breakdown company attended Mr M's home. The mileage was recorded as 56,671 and various fault codes were noted. Mr M says the diagnostic from the breakdown company showed the issue with the car was the same as when it previously broke down, and he complained to Moneybarn again.

In November 2022 Moneybarn issued its final response to Mr M's second complaint. This said, in summary, that Moneybarn had attempted to arrange an independent inspection of the car, but as the MOT had expired this wasn't possible as it couldn't be driven. So it said it wasn't possible to say if Moneybarn were liable and it didn't uphold the complaint.

Mr M referred the complaint to our service. He reiterated that he believed the first and second issues were linked. He provided some more information to our service, including an estimate from a garage that said a compression test had been carried out.

Our investigator issued an opinion. This explained, in summary, that he didn't think there was enough to say the second breakdown was linked to the first. He said as Mr M had used the car for several months and had covered around 7,000 miles since the first repair, Moneybarn weren't responsible.

Mr M got in touch and said he disagreed. He explained he was going to get an independent inspection of the car, which was done in July 2023 and the mileage recorded as 56,816.

This independent inspection said, in summary, that the engine produced an abnormal sound from the timing chain area when idling, with a knocking and tapping noise. It said there wasn't evidence to link the later issue with the earlier one.

Our investigator explained the inspection didn't change his opinion on the complaint.

Mr M remained unhappy. He said the garage who saw the car and the breakdown company both said the later failure was due to the same issue as the earlier fault. He then provided another diagnostic from the breakdown company dated August 2023. This again listed various fault codes.

Our investigator explained this still didn't change his opinion. Mr M continued to disagree, so the complaint has been passed to me to decide.

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 do not think this complaint should be upheld. I'll explain why.

Mr M made two complaints to Moneybarn. I should make it clear I am only considering the latest complaint, to which Moneybarn issued its final response in November 2022. This means I won't comment on the outcome nor the redress from the complaint addressed in March 2022. However, it is still important to consider the history of what happened with the car from this period, as this is relevant to the current complaint.

Mr M complains about a car supplied under a conditional sale agreement. Entering into regulated consumer credit contracts such as this as a lender is a regulated activity, so I'm satisfied I can consider Mr M's complaint about Moneybarn.

Mr M has sent in quite a large amount of evidence and raised lots of individual points. I may not comment on everything he's provided and told us. I want to reassure both parties that this doesn't mean I consider things unimportant, nor that I haven't reviewed everything. While I've carefully thought about all of the information on the case, I'm going to focus on what I consider to be the crux of Mr M's complaint and the key evidence. This reflects the informal nature of our service.

When considering what's fair and reasonable, I take into account relevant law, regulation and guidance. The Consumer Rights Act 2015 ('CRA') is relevant to this complaint. This explains that under a contract to supply goods, the supplier (Moneybarn here) needed to make sure the goods were of 'satisfactory quality'. Satisfactory quality is what a reasonable person would consider it to be, taking into account any relevant factors.

I would consider relevant factors in this case to be, amongst others, the car's age, price and mileage. So, I'll consider that Mr M's car was around nine years old and had covered just under 50,000 miles. So, I think a reasonable person would not expect it to be in the same condition as a newer, less road worn one. But, I think they would expect it to be free from anything other than minor defects and would expect trouble free motoring for at least a short period.

It isn't in dispute here that Mr M's car developed an issue in September 2022. This has been acknowledged by the breakdown company, a garage and by the independent inspection. So I don't think I need to go into much detail here, other than to say having reviewed the evidence I'm also satisfied it's clear the car developed a fault at this time.

Considering this fault *in isolation*, when it occurred Mr M had the car for around nine months, it had covered 8,000 miles since he got it and it was approaching ten years old. Given the

time and mileage here, I think it's unlikely the fault was present or developing at the point of supply. And I think a reasonable person would consider it to have been durable.

But, this doesn't tell the whole story. It's also not in dispute that the car developed a fault much earlier, just a few weeks after Mr M got it. This was repaired, but Mr M says the later fault is directly linked to the earlier one. And he says he's provided evidence to show this.

If the latest faults can be shown to be linked to an earlier failed repair which occurred shortly after Mr M got the car, this may point to an underlying fault which was never put right – meaning the car may not have been of satisfactory quality when supplied. So, this is the key question I need to answer – is the fault that occurred in September 2022 the same as, or linked to, the fault that occurred in January 2022?

Firstly I need to consider the earlier fault. While we've asked both parties for any information about this, there is still something of a lack of evidence. For instance, I don't have a copy of job sheets for the repairs carried out. But, I have seen an independent inspection from the time.

This explained:

"the vehicles engine was running poorly in the form of a misfire"

"We were made aware that the repairers had done a compression test, although not in our presence . They stated the pressure per square in on cylinder 4 was approximately 30psi and the other cylinders were around the 180psi mark"

"we were able to identify a fault on the vehicle at the time of our inspection . This was that the vehicle did take a longer time to start of which would be deemed normal. The vehicles engine did rotate quicker whilst under cranking, indicating a loss of compression on a cylinder"

So, I'm satisfied the engine had an issue with a misfire and low compression on cylinder four. That being said, it's important to note I have no information about what caused this. I've then considered the later information.

Mr M provided two diagnostics from a breakdown company. These give a list of diagnostic/fault codes, which do include misfires. But, there is no other detail. Neither gives any conclusions about what is wrong with the car, any commentary on the cause, or mention if any issue could be linked to the earlier repair. So I'm not putting much weight on these pieces of evidence.

There are two other bits of evidence that contain some more detail. Mr M provided an 'estimate' from a garage dated from February 2023 where the mileage was noted as 56,794. This noted a compression test was carried out and it said *"Confirmed Engine mechanical issue (not fuel injector related)"*. The results from the compression test show a lower pressure on cylinder one, than on two to four.

I've seen a follow up email to Mr M, where it further explained:

"During the cylinder compression test, we confirmed constant low compression in cylinder no1. In order to find out the cause of the compression loss, the engine needs to be removed and stripped to pieces. A partial compression loss, like this, could be related to a piston crack, compression ring crack, camshaft issue, valve issue etc. A newly rebuilt engine should not have these issues."

I've then considered the independent inspection from July 2023.

This report explained a noise was coming from the timing chain area. It goes on to say:

"The fault can be related to a multitude of issues which develop in the engine, including valve gear wear, piston and bore damage/wear, big end and main bearing defects. Often the probable causes for these conditions are normal wear and tear, overheating or lubrication faults."

*"there was **no evidence to directly link the current failure under investigation to the previous failure**"* (emphasis added by myself)

"At this stage we are unable to confirm any faults that could have been said to be present at purchase due to the mileage covered"

I've very carefully thought about all of this, along with what Mr M said. Having done so, I haven't been shown enough to persuade me it's most likely the fault that later occurred is the same as previously repaired. And, the independent inspection is very clear in its conclusion that there is no evidence the later fault is directly linked to the previous failure. I haven't been presented with anything that makes me question the validity of this conclusion.

It follows that I'm satisfied it's most likely the later issue the car had occurred due to wear and tear, rather than being linked to an earlier issue. And, as earlier explained, I think it's most likely this fault was not present or developing at the point of supply. I also think a reasonable person would consider the car to have been durable.

Thinking about everything, I'm satisfied that the fault that occurred in September 2022 does not mean the car was of unsatisfactory quality.

I want to again reassure Mr M that I've carefully considered all of his other points and all of the evidence on the complaint. But this doesn't change my opinion.

My final decision

My final decision is that I do not uphold this complaint.

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

John Bower
Ombudsman