

The complaint

Mr C complains that a car acquired with finance from Moneybarn No 1 Limited wasn't of satisfactory quality.

What happened

In March 2023 Mr C was supplied with a car and entered into a conditional sale agreement with Moneybarn.

When Mr C collected the car, he noticed that the engine management light was illuminated. He went back to the dealership who reset it. Whilst Mr C was driving the car home the engine management light illuminated again and he noticed that the car was struggling to go up hill. Mr C contacted the supplying dealer again but they were unwilling to help.

Mr C reported the fault to Moneybarn and asked to reject the car.

Moneybarn asked to arrange an independent inspection of the car. Mr C says he agreed to this but says he heard nothing for two weeks so he booked the car into a local main dealer who identified a suspected turbo fault.

Moneybarn didn't uphold Mr C's complaint. It said he had refused to let them inspect the car and that this was a breach of the terms of his finance agreement. Moneybarn said that there was no evidence to show that there was a fault with the car.

Mr C wasn't happy with the response and complained to this service. He said he'd sent the report from the main dealer to Moneybarn, and he considered this report to be independent. Mr C said he'd had to resign from his job due to being unable to use the car and he'd suffered financial difficulties due to having to maintain the direct debit payments which had impacted on his mental health.

Our investigator didn't uphold the complaint. They said that although there was a reference on an invoice to a suspected intermittent fault with the turbo, there wasn't enough evidence to say that there was an inherent fault at the point of supply.

Mr C didn't agree. He said he accepted that there were serviceable parts of the car which would require replacement, but his main concern was the engine management light which had been illuminated since the day he collected the car. He said he wanted to provide further evidence about when the engine management light illuminated and what it related to.

Mr C hasn't provided any further evidence, so I've completed my review of the complaint on the basis of the available information.

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.

The Consumer Rights Act is relevant to this complaint. This says that the goods must be of

satisfactory quality when supplied. Cars are of satisfactory quality if they are of a standard that a reasonable person would regard as acceptable, taking into account factors such as the age and mileage of the car and the price paid. The legislation says that the quality of goods includes their general state and condition, as well as things like fitness for purpose, appearance and finish, freedom from minor defects, safety and durability.

The car supplied to Mr C was around 10 years old and had covered around 66,334 miles. So it's reasonable to expect that parts of the car would already have a degree of wear and tear and that it was likely to require repairs sooner than, say, a brand new car.

Under the Consumer Rights Act 2015, where there is evidence to show that there's a fault with the car which occurred within the first six months of the point of supply, it's assumed that the fault was present or developing at the point of supply and it's generally up to the business to put things right.

I've reviewed the available information about the issues which Mr C experienced with the car. I've looked at the vehicle health check which was carried out by the main dealer in May 2023. This states that the front and rear brake pads are around 90% worn and there's evidence of heat damage to the rear discs. It also states that the spare tyre/inflation kit has expired and the car requires new vacuum pipes.

I've also looked at an invoice from Hartburn Garage. This is dated March 2023. The invoice lists several fault codes some of which relate to the glow plugs and the turbo boost system performance. It also states that there is play on the input shaft and movement on the wastegate shaft. The invoice states that the fault codes were cleared and when the car was re-tested and re-checked it was ok. The invoice also states that there is a suspected intermittent fault in relation to the turbo. It states that the fault hasn't been confirmed as it didn't occur when the car was in the garage's possession.

I can see that Moneybarn wrote to Mr C in May 2024 and asked it could arrange an independent inspection. Mr C has said that he agreed to this, but the inspection company wrote to Moneybarn in June 2023 and said that Mr C had refused the inspection. The independent inspection hasn't taken place.

Based on what I've seen, whilst I agree that there are some serviceable issues with the car as identified by the vehicle health check, these aren't things that I would consider to be faults, or things that would make the car of unsatisfactory quality. Mr C has told this service that he appreciates that component parts like brake discs and pads suffer wear and tear and require replacing from time to time. He's said that it isn't the serviceable issues which he's concerned about, it's the issue with the turbo. There's nothing in the vehicle health check which mentions any fault with the turbo.

In order to uphold the complaint, I need to be satisfied that there's a fault with the turbo. Based on the evidence I've seen, I'm not persuaded that there's enough evidence to establish that there's a fault with the turbo. I appreciate that the invoice from Hartburn Garage identified some fault codes relating to the turbo, but fault codes can be historic, and I can see that when the garage cleared these codes and carried out a re-check, they found the car to be ok. This suggests that there wasn't an ongoing fault.

I also appreciate that the invoice mentions a suspected intermittent turbo fault but again, without clear evidence of a fault, I don't have enough evidence to safely conclude that the car wasn't of satisfactory quality when it was supplied. I understand that with intermittent faults it's difficult to replicate each time a car is taken to a garage. However, where I have evidence which is inconclusive (as in this case), I have to reach a decision based on the balance of probabilities. And in this case, on balance, I'm not persuaded that there's enough

evidence to establish that there's a fault with the turbo which makes the car of unsatisfactory quality.

An independent expert's report can help to determine whether there's a fault which makes the car of unsatisfactory quality. There's a different version of events as to why an independent inspection didn't take place in this case. Without an independent inspection, it's likely to be very difficult for Mr C to show that there was a turbo fault at the point of supply.

Taking everything into consideration, and whilst I understand that Mr C will be disappointed by my decision, there isn't enough evidence for me to say that the car wasn't of satisfactory quality. I'm therefore unable to uphold the complaint.

My final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 1 April 2024.

Emma Davy
Ombudsman