

## **The complaint**

Mr O complains that a car acquired under a conditional sale agreement with Moneybarn No.1 Limited trading as Moneybarn (Moneybarn) wasn't of satisfactory quality when it was supplied to him.

## **What happened**

The parties are familiar with the background of this complaint so I will only summarise what happened briefly here.

In December 2022, Mr O acquired a used car from Moneybarn under a conditional sale agreement. He used a broker (F) to source the car. The car was eleven years old and had covered approximately 113,300 miles when the agreement started. The agreement was for 47 months, and the cash price of the car was £10,800.

Mr O has said that he needed to get in touch with the dealership the day after taking delivery of the car, as the coolant level was low. He has also said that, over the next couple of months the car was in and out of the dealership several times for repair.

Mr O arranged a diagnostic report in January 2023. The report showed some concerns with, amongst other things, the glow plugs, the driveshaft, and the anti-roll bars. Mr O got in touch with F at this point, as he was unhappy with the car and the faults. F confirmed to Mr O that the dealership were happy to take the car back and undertake any repairs. It's my understanding the car was returned to the dealership at this point.

Mr O contacted Moneybarn in April 2023. The car had covered approximately 117,800 miles at this point. He said that the car still had faults. He asked Moneybarn to consider making a payment towards the repairs, or to consider allowing Mr O to reject the car and end the agreement. Moneybarn arranged an independent report of the car. The report concluded that any faults with the car hadn't been present or developing at the point the car was supplied to Mr O. Moneybarn rejected Mr O's complaint.

Mr O brought his complaint to our service. Our investigator didn't uphold it. She said the independent report confirmed any faults wouldn't have been present at the point of supply. She also noted that F had asked for an independent report to be carried out, a couple of months after the one arranged by Moneybarn, and that had also concluded that any faults seen wouldn't have been present at the time the car was supplied to Mr O. Because of that, our investigator said she was satisfied the car was of satisfactory quality when it was supplied to Mr O.

Mr O didn't agree. He continued to say that the car had been faulty from the outset and remained so.

As Mr O hasn't agreed, it's 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.

Mr O has provided a lot of information here. I'd like to reassure him that I've read and considered everything that's been sent, although I haven't commented on it all within this decision. I will be focussing on what I consider to be the key points of the complaint.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations, relevant regulatory rules, guidance and standards and codes of practice.

As the conditional sale agreement entered by Mr O is a regulated consumer credit agreement this service can consider complaints relating to it. Moneybarn are the supplier of the goods under this type of agreement and are responsible for a complaint about their quality.

The Consumer Rights Act 2015 (CRA) covers agreements like the one Mr O entered. Because Moneybarn supplied the car under a conditional sale agreement, there's an implied term that it is of satisfactory quality at the point of supply. Cars are of satisfactory quality if they are of a standard that a reasonable person would find acceptable, taking into account factors such as – amongst other things – the age and mileage of the car and the price paid.

The CRA also says that the quality of goods includes their general state and condition, and other things like their fitness for purpose, appearance and finish, freedom from minor defects and safety can be aspects of the quality of the goods.

But, on the other hand, satisfactory quality also covers durability. For cars, this means the components must last a reasonable amount of time. Of course, durability will depend on various factors. In Mr O's case, the car was used and had covered approximately 113,300 miles when he acquired it. So, I'd have different expectations of it compared to a brand-new car. Having said that, the car's condition should have met the standard a reasonable person would consider satisfactory, given its age, mileage, and price.

Our investigator has explained that she thinks the car was of satisfactory quality when it was supplied to Mr O. I agree in this case. There is no doubt the car has some faults – the inspections carried out confirm that to be the case. But I'm not persuaded, from what I've seen, that I can conclude the car was faulty when it was supplied to Mr O. I'll explain why.

Mr O brought the problems with the car to Moneybarn's attention in April 2023, five months after he'd been supplied with it. So, I need to consider if Moneybarn have done what I'd expect them to have done once they were aware there was a problem with the car.

The CRA explains that where goods are found not to have conformed to the contract within the first six months, it is presumed the goods did not conform to the contract at the point of supply. Unless the supplier, Moneybarn in this case, can prove otherwise. In Mr O's case, it was within six months when he first informed Moneybarn of the faults with the car. Moneybarn agreed to arrange an independent inspection of the car to determine when the faults with the car had occurred. A couple of months after Moneybarn's independent inspection, the broker arranged for another one to take place.

The independent inspections took place in June 2023 and August 2023 and are, in my opinion, the most persuasive pieces of evidence in this case. They were a physical inspection of the car by qualified motor technicians. Neither technician concluded that the faults present with the car were present or developing when the car was supplied to Mr O.

The independent report arranged by Moneybarn in June 2023 was asked to look into the faults Mr O's diagnostic report had described in January 2023, which Mr O said the dealership confirmed to him had been repaired. The independent report found no faults present with the coolant levels, the driveshaft, or the glow plugs. The report does say that there was a loud banging noise from the transfer gearbox – and a diagnostic test confirmed that the transmission gearbox was at the end of transmission service life. The report concluded that it wasn't felt that the faults found had been present when the car was supplied to Mr O.

The second independent report was asked to assess the transmission and transfer box. Faults were found with both, and a diagnostic test showed the same fault codes as Mr O had seen from a diagnostic test in May 2023. However, the independent report also confirmed the car had covered approximately 118,700 miles at that point, an additional 5,000 miles since being supplied to Mr O, and it was the technician's opinion that the faults had not been present at the point of supply.

Both reports confirm that there is no evidence of any previous repairs having failed.

Mr O has questioned the validity of the reports, especially the first one arranged by Moneybarn. He has suggested that the second report only validated the first report as the independent inspection company didn't want to say the first inspection had been conducted incorrectly. But Mr O hasn't provided any evidence to prove this, and I have no reason to question the validity or professionalism of either report, based on the evidence I have seen. I'm satisfied they were conducted correctly, and I'm satisfied they both confirm the faults present with Mr O's car wouldn't have been present at the point it was supplied to Mr O. Based on those reports, I'm satisfied that Moneybarn have acted fairly by not agreeing with Mr O that the car was faulty when it was supplied to him.

As mentioned previously, the car Mr O acquired was eleven years old and had covered approximately 113,300 miles when it was supplied to him. It's fair to say the car was far from new. This means that the standard a reasonable person might expect from it would be lower than for a car that had covered fewer miles. Acquiring a used car carries some inherent risks, not least of which is that sooner or later items, or components of the car, will need repair or replacement.

Mr O had the car for seven months and the car had covered approximately 4,500 miles when the first independent report was carried out. As previously stated, I'm satisfied that a reasonable person would expect to have to repair or replace some wear and tear components on a used car sooner than they would on a newer one. In Mr O's case it seems the requirement to replace the parts now found to be faulty has come sooner than he was expecting, but I'm not persuaded that means the car wasn't of satisfactory quality when it was supplied to him. I'm more persuaded that the work needed now to repair the car needs doing as a result of wear and tear.

I know Mr O disputes this, and he feels the car has been faulty since it was supplied to him. He's mentioned on many occasions that the car has been back to the supplying dealership many times for repairs, prior to him notifying F and, subsequently, Moneybarn about the faults. But he hasn't been able to provide any evidence of the repairs – and I'm only considering the actions of Moneybarn as the supplier of the car in this decision. And based on what I have been provided with, I'm more persuaded than not that Moneybarn have dealt with Mr O's concerns and complaint fairly when it was brought to their attention.

Within his submissions to our service, Mr O has also mentioned the car has an outstanding recall notice. He's provided the MOT certificate from December 2022 which also confirms an

outstanding recall. However, Mr O hasn't provided any details of what the recall was for – and having done some research I've found no outstanding recalls for the car. So, it follows that I'm not able to make any comment on the recall reasons within this decision, and I continue to find the independent inspection reports the most persuasive pieces of evidence in this case.

I know this will come as a disappointment to Mr O, and he has a car that needs substantial repair to enable it to be roadworthy again. But as I've explained above, I can't hold Moneybarn responsible for that. I won't be asking them to do anything more here.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 28 November 2024.

Kevin Parmenter  
**Ombudsman**