

The complaint

Mr M complains about the quality of a car he acquired through a conditional sale agreement financed by Moneybarn No.1 Limited (Moneybarn).

What happened

In May 2023 Mr M acquired a used car through a conditional sale agreement financed by Moneybarn.

Later that month Mr M told the dealership he purchased the car from that he'd like to return it as it didn't come with two keys, it was incorrectly registered, and the engine management light had come on. The dealership and Mr M agreed that he'd take the car to a local garage to be inspected, and that garage said they thought there was an issue with the EGR that was likely to cause an issue with the DPF, along with a problem with the gearbox as it wasn't changing gears smoothly.

The dealership offered to repair the car for Mr M or said that he could reject it depending on verification of a fault. Mr M took the car to the dealership at the end of May 2023 and complained to Moneybarn about the quality of the car.

Mr M collected the car in early August 2023 following repairs. Moneybarn sent Mr M their final response to his complaint in August 2023. They said repairs had been completed, and they offered Mr M a refund of one monthly payment at £311.34 as repairs took four weeks to complete.

An inspection of the vehicle was arranged in October 2023. The engineer that inspected Mr M's car concluded that there was a fault with the gearbox, but this was due to wear and tear and wasn't unexpected on a car of this age and mileage. They said there was no evidence of a previous repair to the gearbox that'd now failed.

Mr M brought his complaint to this service for investigation. He said he was still experiencing problems with the engine and the gearbox, and he wanted Moneybarn to repair these and to provide a courtesy car during repairs.

Our investigator gave her view that whilst she was satisfied there were faults with the vehicle, she didn't think these made it of unsatisfactory quality at the time it was supplied to Mr M. She thought the faults were a result of a reasonable level of wear and tear, and so she didn't ask Moneybarn to do anything further.

Mr M didn't agree and asked for his case to be considered afresh. As an agreement can't be reached, the case has been passed to me for a 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.

In considering what's fair and reasonable, I need to have regard to the relevant law and regulations. The agreement in this case is a regulated conditional sale – so we can consider a complaint relating to it. Moneybarn as the supplier of the goods under this type of agreement is responsible for a complaint about their quality.

The Consumer Rights Act 2015 is relevant to this complaint. It says that under a contract to supply goods, there is an implied term that the “quality of the goods is satisfactory”

To be considered “satisfactory” the goods would need to meet the standard that a reasonable person would consider satisfactory – taking into account any description of the goods, the price and other relevant factors. Those factors, in the case of a car purchase, will include things like the age and mileage of the car at the time of sale, and the car's history.

The quality of the goods includes their general condition and other things like their fitness for purpose, appearance and finish, safety and durability.

Here, the car was acquired used with a cash price of around £12,000. It was around six years old and had travelled approximately 93,000 miles at the time of supply. It was also supplied with no service history.

When a person acquires a used car like Mr M's it's reasonable to say that the expectation of quality is lower than that of a new, lower mileage, or well-maintained second-hand car. There is an inherent risk in the vehicle having no service history. The price for the vehicle is lower, and this is reflective of the fact that the car is more road worn. The chance of encountering a serious issue sooner, is higher.

It's not clear exactly what repairs were completed by the selling dealership when Mr M returned the car to them early on in the agreement, and an inspection wasn't completed until some months after Mr M had the car back.

I've seen evidence that Mr M reported problems with the gearbox to the dealership within a month of the car being supplied, and these problems were identified in the inspection completed in October 2023. So, I'm satisfied that the fault with the gearbox was present in May 2023 and continued after Mr M made his complaint.

The evidence supplied by Mr M suggests there might be a problem with the EGR and/or the DPF, but the garage that inspected Mr M's car said it would need further investigation to confirm if this was the cause of the problems Mr M was experiencing. There is no mention of the EGR or the DPF on the inspection report from October 2023.

The engineer that inspected Mr M's car in October 2023 concluded that the fault to the gearbox was as a result of a reasonable level of wear and tear. Mr M said he wouldn't expect a car of this value to suffer such serious faults so soon after acquiring it.

When the car was supplied to Mr M it'd travelled around 92,000 miles. When it was inspected in October 2023 it'd travelled around 98,000 miles, so Mr M had been able to use it for approximately 6,000 miles in five months. I've seen evidence that in January 2024 the car had travelled around 103,000 miles, so Mr M had been able to use it for around another 5,000 miles in the four months since the inspection. Mr M appears to have had average use of the vehicle in the time it's had a fault and the faults are not preventing him from using the vehicle.

I've considered the durability of the car, and I think that all of the parts that Mr M has had possible problems with, the EGR, DPF and gearbox, are parts that suffer from wear and tear, which will increase with the age and mileage of the vehicle. In addition, there's no

evidence that Mr M's car has been well maintained, as it was supplied without a service history. So, it's possible that parts of the car have worn out more quickly than might otherwise be expected because of this.

I think, that at six years old and having covered 92,000 miles, Mr M's car was around the age when a reasonable person might start to expect that some relatively serious repairs may be needed. Mr M has been able to travel around 11,000 miles in the vehicle, and there's no evidence that it was well maintained prior to Mr M acquiring it. I'm satisfied that the faults that Mr M has experienced are due to a reasonable level of wear and tear to the vehicle and as a result, I find the car was of satisfactory quality at the time it was supplied to Mr M.

Whilst what has happened is unfortunate, it is the risk of owning an older, higher mileage second-hand car like this one. I appreciate that having a car that develops a fault relatively soon after acquiring it is stressful, and may be an expensive, experience for Mr M. That doesn't mean that Moneybarn are responsible for the cost of repairs.

My final decision

Due to the reasons outlined above, my final decision is that I don't 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 11 July 2024.

Zoe Merriman
Ombudsman