

The complaint

Miss T is unhappy that a car supplied to her under a conditional sale agreement with Moneybarn No.1 Limited was of an unsatisfactory quality.

What happened

On 13 June 2023, Miss T was supplied with a used car through a conditional sale agreement with Moneybarn. She paid an advance payment of £234, and the agreement was for £5,080 over 33 months with monthly payments of £238.73. At the time of supply, the car was around 12 years old and had done 81,946 miles.

Miss T started to have problems with the car from the day it was supplied to her. The supplying dealership authorised repairs, but these didn't fix the issues and Miss T stopped using the car on 31 July 2023. Miss T complained to Moneybarn who arranged for the car to be inspected by an independent engineer. The independent engineer said the car wasn't sufficiently durable when it was supplied to Miss T, and Moneybarn agreed to her rejecting the car.

Miss T had paid three payments to Moneybarn, and, on 3 November 2023, they refunded two of these payments to reflect when Miss T was without use of a car she was paying for. The agreement was terminated on 28 November 2023 and, on 19 December 2023, Moneybarn refunded Miss T's deposit and paid her £125 compensation for the distress and inconvenience she'd suffered.

Because she was unhappy with how long things were taking, Miss T had already brought her matter to the Financial Ombudsman Service for investigation. After an initial confusion over how many payments Moneybarn had refunded to Miss T, our investigator said Moneybarn should end the agreement, collect the car, remove any adverse information from Miss C's credit file, and increase the compensation to £300.

Moneybarn agreed to this and paid Miss T the additional compensation recommended in February 2024. However, they didn't close the account down, and leaving it open was stopping Miss T from obtaining finance for a replacement car. Which was causing her additional inconvenience.

Due to the ongoing delays, the investigator recommended that Moneybarn pay Miss T an additional £100, which Moneybarn agreed to and paid. However, the agreement still wasn't closed and, in March 2024, Moneybarn disputed being in possession of the car. As such, this matter has been passed to me to make a final 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.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't

believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Miss T was supplied with a car under a conditional sale agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

The Consumer Rights Act 2015 ('CRA') says, amongst other things, that the car should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of goods, Moneybarn are responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history and its durability. Durability means that the components of the car must last a reasonable amount of time.

The CRA also implies that goods must conform to contract within the first six months. So, where a fault is identified within the first six months, it's assumed the fault was present when the car was supplied, unless Moneybarn can show otherwise. But, where a fault is identified after the first six months, the CRA implies that it's for Miss T to show it was present when the car was supplied.

So, if I thought the car was faulty when Miss T took possession of it, or that the car wasn't sufficiently durable, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask Moneybarn to put this right.

In this instance, it's not disputed there was a problem with the car, nor that this fault was present when the car was supplied to Miss T. As such, I'm satisfied that I don't need to consider the merits of this issue within my decision. Instead, I'll focus on what I think Moneybarn should do to put things right.

Putting things right

As detailed above, Moneybarn have completed all the agreed actions on this matter, with the exception of actually closing down the agreement, and showing it as settled on Miss T's credit file. Although all the correspondence they've had with the investigator since December 2023 had been about how they are going to prioritise matters to get this closed, Miss T has told us they've told her (in March 2024) that they are now disputing receiving the car back from Miss T.

While this is noted, Miss T has provided a copy of a Vehicle Appraisal & Condition Report, dated 15 December 2023, showing that the car was collected by a third-party agent on behalf of Moneybarn. I'm therefore satisfied that the car was collected from Miss T. If Moneybarn can't trace the whereabouts of the car, this is an issue between them and their collection agent, and Miss T shouldn't continue to be impacted while they try and sort this.

Therefore, Moneybarn should:

- close down this agreement within seven days of being advised that Miss T accepts my decision, ensuring that this is reported to the credit reference agencies with a rejection date of 15 December 2023; and
- remove any adverse entries relating to this agreement from Miss T's credit file.

I would also expect Miss T to provide Moneybarn with a copy of the Vehicle Appraisal & Condition Report should they need this to assist them in tracing the whereabouts of the car.

My final decision

For the reasons explained, I uphold Miss T's complaint about Moneybarn No.1 Limited. And they are to follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 13 May 2024.

Andrew Burford
Ombudsman