

## The complaint

Mr L is unhappy with the quality of a car that was supplied to him under a conditional sale agreement with Moneybarn No. 1 Limited.

## What happened

On 31 May 2023 Mr L took out a conditional sale agreement with Moneybarn. This was for a ten year-old car that had covered just over 113,800 miles, priced at £11,049. Mr L paid a £400 deposit. He agreed to repay the rest over five years, using the finance agreement.

Mr L told us that he had a problem with the car losing power within a few hours of collecting it. He said he took it to two local garages for diagnostic tests, and they both advised him to have it repaired at one of the manufacturer's own network of garages.

Mr L said he contacted the supplying dealer about this problem on 2 June 2023. He's provided evidence showing he contacted Moneybarn five days later, saying he wanted the agreement terminated because the dealer wasn't prepared to cover the cost of having repair work carried out by one of the manufacturer's garages.

Moneybarn told us that the dealer offered Mr L the option of either returning the car for a full refund or allowing them to collect and repair it - giving him a courtesy car to use in the meantime. Moneybarn said Mr L rejected both of these options. They said he wanted the car repaired at a garage in his local area, so the dealer agreed.

On 15 June 2023 Mr L complained to Moneybarn that the car had been at his local garage for two days but they'd been unable to contact the dealer. He asked Moneybarn if he could cancel the finance agreement.

Moneybarn issued their final response to Mr L's complaint, saying they wouldn't support his request to reject the car. They said by the time he made that request he'd already asked the dealer to cover the cost of having it repaired - and the work was well underway. Dissatisfied, Mr L referred his complaint to us.

Moneybarn provided a copy of the invoice from Mr L's local garage. It was dated 16 June 2023 and listed work totalling £1,276.45. It said the garage had diagnosed "*EGR cooler malfunction and air mass malfunction*". It said various parts of the car had to be stripped down and tested before the appropriate new parts were ordered and installed.

After reviewing the evidence from both parties, our investigator said he didn't think Mr L had the right to reject the car because he'd already agreed to a repair.

Mr L disagreed. He said he'd taken the car to the local garage to find out what was wrong with it. He said it was agreed this would be at the dealer's expense, but several days went by before the dealer made contact with the garage to make payment.

Mr L said he'd spoken to the local garage on 15 June 2023, when they'd diagnosed the main fault with the car. He said they'd told him they'd also discovered it had previously been

damaged in an accident. He said he didn't consider this to be of satisfactory quality, and his wife didn't feel it was safe to drive.

Mr L stressed that he'd made it clear he didn't want the car before the garage started work on the repairs. He asked for an ombudsman to review his case.

### **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 agreement between Moneybarn and Mr L was a regulated conditional sale agreement, so I can consider a complaint about it. Under a conditional sale agreement Moneybarn is the supplier of the car, so they're responsible for a complaint about its quality.

The Consumer Rights Act 2015 (CRA) is relevant to this complaint. It says every contract to supply goods is to be treated as if it includes a term saying the quality of the goods will be satisfactory.

There doesn't seem to be any dispute that this car wasn't of satisfactory quality when it was supplied to Mr L due to the EGR cooler problem. I agree. I think Mr L was reasonably entitled to expect it to last for longer than a few weeks without the need for expensive repair work.

The CRA sets out remedies that are available to Mr L because his right to receive a car of satisfactory quality wasn't met. This includes a short-term right to reject, which usually expires if Mr L doesn't exercise it within a period of 30 days after he took delivery of the car.

The CRA explains that exercising the right to reject means saying or doing something that's clear enough to be understood by the business as indicating Mr L is rejecting the car and treating the agreement as having ended. I've considered whether I think he did make that clear – and when.

Moneybarn said the dealer gave Mr L the option of returning the car, but he wanted it repaired at a garage in his local area. Mr L told us that he made it very clear that he wanted to reject the car before it was repaired. Where the evidence is incomplete or contradictory - as some of it is here - I have to decide what I think is most likely to have happened.

Mr L has shown us a copy of the online message he sent Moneybarn on 7 June 2023, in which he talked about problems he was having in getting the car repaired at a garage he was happy with. Although he said he wanted the agreement terminated, I do think this message shows Mr L's preferred solution was to have the car repaired.

The evidence I've seen shows the car was taken to the local garage on Tuesday 13 June 2023. Mr L has provided a copy of a text message conversation thread, which shows discussions he had with the dealer whilst the car was at the garage awaiting repairs.

I've seen a text message in which Mr L told the dealer he'd started the process of having his finance agreement cancelled because the local garage had received no contact or payment from them regarding repairs. Although that message is undated, I think it's most likely to have been sent on Thursday 15 June 2023. I say this because I've seen a copy of the email Mr L sent Moneybarn that day, saying the garage was struggling to contact the dealer about payment and asking if he could terminate the agreement.

Having thought about all of this, I find it most likely that Mr L did agree to the car being repaired at a local garage at the dealer's expense. And I think it's most likely that he changed his mind about this on 15 June 2023.

The CRA makes it very clear that, having requested or agreed to a repair, Mr L can't exercise the right to reject the car until he's allowed the business a reasonable time to repair it - unless that would cause him significant inconvenience.

Although none of the evidence I've seen confirms the exact date the repair was completed, I'm satisfied that the car was ready for Mr L to collect within a reasonable time. I say this because the garage issued an invoice on 16 June 2023 for the repairs they'd carried out - and I've seen nothing to suggest there was any dispute about payment. I've also seen no suggestion that the car wasn't of satisfactory quality once it was repaired.

Although I can appreciate that it would've been frustrating for Mr L to be without the car for a few days, I think some minor inconvenience is to be expected from time to time when dealing with problems that crop up in daily life. I'm not persuaded that Mr L suffered significant inconvenience whilst the repair was carried out.

For these reasons, I don't consider Mr L to have the right to reject the car.

I accept that the local garage may not have fitted any replacement parts to the car by 15 June 2023, when Mr L said he wanted to reject it. But that doesn't change my decision, because I don't consider Mr L to have had the right to reject the car at that point. And I don't think it would be fair to expect Moneybarn to do anything different at that stage, because I think the local garage would've already started work stripping existing parts and ordering replacements.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 19 July 2024.

Corinne Brown  
**Ombudsman**