

The complaint

Mr A complains about the quality of a car supplied via a conditional sale agreement by Moneybarn No.1 Limited.

What happened

The parties are familiar with the background details of this complaint – so I will briefly summarise them here. It reflects my role resolving disputes with minimum formality.

Mr A says there are issues with the car which need repair – namely the clutch and flywheel. Mr A says he thinks that Moneybarn should pay for this repair – or at least half the cost. He says the matter has financially stressed him and impacted his mental wellbeing.

Moneybarn said the problems with the car were down to reasonable wear and tear so would not pay to get them fixed. Despite this it said it would pay Mr A £50 compensation for distress and inconvenience.

Mr A brought his complaint about the car to this service. Our investigator did not uphold it, so Mr A has asked for an ombudsman to look at things again for 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.

While I might not comment on everything (only what I consider key) this is not meant as a discourtesy to either party – it reflects my role resolving disputes with minimum formality.

In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

The agreement in this case is a regulated consumer credit agreement. As such, this service is able to consider complaints relating to it. Moneybarn is also the supplier of the goods under this type of agreement, and responsible for a complaint about their quality.

The Consumer Rights Act 2015 is of particular relevance 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".

The Consumer Rights Act 2015 says the quality of goods are satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, the price and all the other relevant circumstances. So it seems likely that in a case involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage at the time of sale and the vehicle's history.

The Consumer Rights Act 2015 ('CRA from now on') says the quality of the goods includes

their general state and condition and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability can be aspects of the quality of goods.

I note Mr A has mentioned the MOT of the car as not being determinative of it being of satisfactory quality. I agree it doesn't in itself show a car is of satisfactory quality – it will cover certain key safety related points. So here my assessment is broader than simply looking at the MOT.

In March 2023 Moneybarn supplied Mr A with a second-hand car that was around 9 years old and had done just over 92,000 miles at the point of supply. The dealer priced it at £7,490 which is notably less than what a new or newer model with less mileage would cost. It is fair to say that in these circumstances (particularly noting the mileage and age of the car) a reasonable person would consider that the car had already suffered significant wear and tear – and was likely to require more maintenance and potentially costly repairs much sooner than you might see on a newer, less road worn model. And I can't see evidence that the dealer described the car in such a way that would alter those expectations.

I am sorry to hear about how this matter has impacted Mr A – I know it has been difficult that he has been confronted with a costly repair. However, based on the information I have I am not fairly able to say that the car as supplied was not of satisfactory quality,

Firstly, I don't think the fault was likely present at the point of supply – because when it occurred Mr A had the car for about five months and had been able to travel around 7,000 miles in it. And there isn't any persuasive evidence, such as an expert report to suggest otherwise. I note that Mr A says the agreement he signed doesn't restrict his use of the car and he is free to use it to drive the miles he wants. And while I accept that – it doesn't mean that these points are not relevant to an assessment of satisfactory quality.

Even though parts might not have been defective at the point of supply this does not always mean a car is of satisfactory quality. When considering satisfactory quality I have also thought about whether the car was sufficiently durable in the circumstances (if parts have failed prematurely). However, I note that at the point of failure, the car was getting on for ten years old and had almost covered 100,000 miles. In these circumstances, without persuasive evidence to the contrary, it would be difficult for me to conclude that the failure of the clutch and flywheel is not down to reasonably expected wear and tear. I also note that this was apparently the conclusion of the dealer and warranty company as well.

I note that Mr A has said he has cared for the car and serviced it as he should have. However, although how Mr A has looked after the car is a relevant factor when assessing the quality of the goods, I don't think that it means that it isn't reasonably expected that parts will wear out on a much older and high mileage car like this. So I don't think this fairly means that there is a breach of contract by Moneybarn in the circumstances here.

I also note that Mr A has said that he wasn't the first owner of the car – so it isn't fair to transfer the responsibility for wear and tear on him. However, when assessing satisfactory quality the key thing is what would be reasonably expected of buying second-hand goods like these. And because of the age and mileage – it will be expected that previous owners have contributed significant wear and tear – and the risk of things going wrong is that much higher. Therefore, while I know that Mr A has only used the car for a short part of its overall life – that doesn't mean there is a breach of contract by Moneybarn.

I note Mr A is not happy with what Moneybarn has done in respect of recovery of the car and storage and the costs associated with this. However, although it appears Moneybarn informed Mr A about the actions it was taking in its response to his complaint – this isn't

something he had complained to Moneybarn about at the time. So it would form the subject matter of a new complaint to Moneybarn rather than me dealing with it here.

In conclusion, I don't consider it fair to ask Moneybarn to do more than it has done here. I know my decision is likely going to disappoint Mr A but he can choose to reject it and pursue the matter by alternative means (such as court) if he decides this is the best course of action (after taking appropriate advice).

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 20 November 2024.

Mark Lancod
Ombudsman