

## The complaint

Mrs W complains about the quality of a new car she received through a finance agreement with Moneybarn No. 1 Limited ('Moneybarn'). She says that the car wasn't of a reasonable quality as it failed soon after she started to use it.

## What happened

This complaint is about a conditional sale agreement that Mrs W took out to purchase a car in July 2023. The vehicle was first registered in 2019 and had a retail price of £10,600. Mrs W paid a £1,000 deposit meaning £9,600 was financed. This agreement was to be repaid through 59 monthly instalments of £239. If Mrs W made the repayments in line with the credit agreement, she would need to repay a total of £15,101. Based on the statement of account an outstanding balance remains due.

I've summarised the issues that Mrs W has had with the car that I have been made aware of by her, Moneybarn and some correspondence I've seen between the parties to the complaint and the car warranty provider.

I understand a number of issues were repaired under warranty within the first 90 days of Mrs W receiving the car. These were:

- A tyre was replaced.
- A gearbox / clutch fault was repaired.
- A hole in the exhaust box was repaired.
- A tear on the interior of the gear shifter housing was repaired.

In January 2024, a roadside recovery company was called to the car due to a battery issue. The recovery company report said the battery was boosted and Mrs W was able to use the car. This issue seemed to be resolved after this.

In February 2024 the car broke down again. A recovery company attended, and it was determined that the engine had overheated and, due to damage to the engine, the car was not driveable and was recovered.

In April 2024 a report on the damage to the car was completed on behalf of one of the businesses that provided some services under Mrs W's warranty. This report said that a coolant pipe had broken free, and all the engine coolant had been lost. There was now extensive damage to the engine that needed further investigation. The report said that it was likely that when the coolant system failed:

*'a warning light would of illuminated warning the low state of engine coolant and visible smoke/steam from the leaking coolant would of been present for the driver to see. In my opinion and from the extent of the damage to the intake manifold and the spark plugs the vehicle was driven for some time after the engine lost its coolant causing the severe damage from overheating which I observed during todays inspection'.*

The reporting company recommended a new engine, inlet manifold, thermostat, and all gaskets, as well as an oil and filter change. Subsequent correspondence and investigation has confirmed that the car now needs a new engine and other related parts.

I can see that Mrs W has been in contact with both the dealership and the provider of the extended warranty about the repairs the car needs. I won't summarise all of this correspondence here as it isn't directly relevant to this complaint. But I have noted that Mrs W's warranty provider has not agreed to repair the car as it considers the likely cause of the engine damage was from Mrs W driving the car when the coolant system was faulty, and this led to the damage to the engine.

Mrs W has complained to Moneybarn, the finance provider, saying that the car was not fit for purpose. She has said that this was because the car had fully broken down within six months of purchase. Mrs W would like to return the car and end the finance agreement.

Moneybarn didn't consider this complaint before Mrs W brought it to the Financial Ombudsman Service.

Our Investigator didn't uphold Mrs W's complaint. He said that Mrs W had used the car for just under seven months and she had driven around 4,500 miles before the fault occurred. So, he didn't think that the fault that Mrs W had complained about was likely to have been present, or developing, at the time of sale. As the fault would likely have presented itself sooner if it was.

Mrs W didn't agree with the Investigator. She said that she didn't think the faults described for a car of that age and mileage should be regarded as 'wear and tear'. She still thought the car should be repaired fully or she should be able to return it.

There was some further correspondence and Mrs W provided a second report, from a different reporting company, about the faults the car had. She said this showed that the car was not durable. This second report says that:

*'faults were likely not present at the time of sale. But engine problems were caused by driving with low coolant. This coolant problems were likely caused by fatigue and or wear and tear, Damage due to driving with low coolant, possible durability issue'*

Our Investigator considered this further report but noted that the overall conclusion was still the same, that is the coolant system fault would likely not have been present at the time of sale. And the actual coolant leak itself would be normal wear and tear. He also thought that Mrs W should have been satisfied that the coolant level was correct before driving. He didn't think the second report showed that Moneybarn was acting unreasonably.

Mrs W didn't agree for the same reasons that she has said earlier. So, 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.

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 conditional sale agreement – 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 ('CRA') 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 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 car's history.

The CRA 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.

As I've outlined above, the car was around four years old at supply and so some wear and tear would be expected, and it wouldn't be 'as new'. So, there is some risk that a car such as this will need repairs and it may need these sooner than a newer car.

And the problems with the car happened between six and seven months after it was supplied to Mrs W, and after she had driven it around 4,500 miles, but I need to consider whether the car was durable. If parts or systems of the car fail prematurely, this might indicate there was already a problem with the car when it was supplied.

### **The faults with the car before the breakdown in February 2024**

There were some faults that were repaired within the first 90 days of Mrs W using the car as I've outlined above. These were repaired and don't form part of this complaint. I don't think they indicate that the car wasn't of satisfactory quality, and they don't seem to have any connection with the coolant system problems.

And there was an issue with the car battery around a month before the car broke down, but this also doesn't seem to have been connected to the coolant system issue. Mrs W did ask the second report provider to consider if the battery problem had led to a warning light not being present when the cooling system failed. But the report provider was unable to determine if this was, or would have been likely to have been, the case.

### **The fault with the car that has led to the complaint**

Both reports I have seen are clear that there was a fault in the cooling system. The car was driven whilst the engine wasn't properly cooled, and this caused extensive damage to the engine. There isn't any dispute about what caused the breakdown that has led to this complaint.

### **Was the car of satisfactory quality at the point of sale, bearing in mind this fault.**

As above, both the reports that have been provided do say that it is unlikely that the engine had coolant, or overheating problems, at the point of sale. This is because the lack of coolant in the engine, or the engine overheating itself, would have manifested very clearly either in the form of an engine warning light or smoke, or steam, coming from the engine.

Mrs W has said that she didn't see a warning light until the afternoon of the breakdown – she hasn't specified what these warnings were. She has said the vehicle was driven at higher speeds – but not for how long – and by the time she was able to safely pull over the car was already smoking.

So, having considered everything I think it's reasonable to say that the fault that led to the engine damage developed when the car broke down in February 2024. I don't think there could have been a problem with the engine cooling system at the point of sale. I don't think Mrs W would have been able to drive the car without it being clear that the car had an engine cooling problem if the fault had occurred any earlier.

The problem with the engine was caused by a coolant pipe coming loose. I've considered whether this was likely due to general wear and tear. And if the fault was likely to have been developing at the time of sale. And if this means that the car wasn't sufficiently durable.

Both reports into the car breakdown indicate that the cooling pipe coming loose would have been caused by general wear and tear. And when the problem took place Mrs W had the car for over six months and she had driven over 4,500 miles. I don't think it's unreasonable given the age and mileage of the car, the time and distance that Mrs W was driving the car, that it could develop a fault or need some maintenance.

And the coolant pipe coming loose does seem to be a problem that could have been repaired if it had been looked at earlier. From what I have been provided this was a part of a car that can fail due to wear and tear and could need to be repaired. So, I don't think it's fair to say the fault was developing at the time of sale and I also don't think it shows that the car wasn't durable.

Whilst the car did develop a fault with the cooling system, the extensive damage to the car engine was caused by it being driven without any coolant. I agree that the driver of a car should ensure it has adequate cooling fluid before, and whilst, driving. And the car was driven without coolant for a long enough period to cause enough damage to the car engine that it now needs to be replaced.

Mrs W has said that a warning light and smoke from the engine were both visible at some point. I can accept that there is still some uncertainty about when Mrs W became aware of these, and she says that she pulled over as soon as she could. But this still means the car was driven for what seems to be a relatively long time, given the circumstances, without coolant and this caused the damage to the engine. I don't think I can fairly say that Moneybarn could, or should, have done anything to prevent this

So, I don't think it's reasonable to say that the car wasn't of satisfactory quality at the point of sale. And whilst the car breakdown was unfortunate, I don't think that Moneybarn should be responsible for putting the faults with the car right or paying any compensation.

### **My final decision**

For the reasons set out above, I don't uphold Mrs W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 3 December 2024.

Andy Burlinson  
**Ombudsman**