

## **The complaint**

Miss E complains that the car she acquired from Moneybarn No 1 Limited (“Moneybarn”) was of unsatisfactory quality and she should be able to reject it.

## **What happened**

Miss E entered into a conditional sale agreement with Moneybarn to acquire a used car in February 2023. The agreement was for five years. In November 2023, the car broke down and she was towed to the supplying dealership. They investigated and said the car needed a new engine.

Later that week Miss E contacted Moneybarn and said she wanted to reject the car. Shortly afterwards, Miss E removed the car to another third party garage, who investigated. They didn’t supply a report however, as there was a charge for that which I gather Miss E did not want to pay. She’s provided a screenshot showing there is a fault but not diagnosing the fault, when it may have occurred, or why.

In early December 2023 Moneybarn requested Miss E supply an independent report so they could consider what the faults were and where the blame lay. They sent her a letter explaining the Consumer Rights Act 2015 (CRA) and that after six months of the agreement, the onus lay on Miss E to produce evidence to show that the issues the car was suffering were present in the first six months.

Miss E said she did not feel it should be down to her to provide this evidence and did not wish to pay for a report. Moneybarn issued their final response letter (FRL) in early January 2024, not upholding the complaint, and again explaining that she needed to provide proof of the fault and its causes to show the vehicle was of unsatisfactory quality. Unhappy with this Miss E brought her complaint to our service.

An investigator here looked into the complaint and issued a view not upholding the complaint in February 2024. They said that Miss E was saying that she had had to regularly top the coolant up since shortly after supply of the car but hadn’t raised this issue with Moneybarn or the supplying dealership, for further investigations. She also couldn’t prove this now, as she hadn’t kept receipts for the coolant.

Alongside this, she had only provided proof that something was now wrong, but no evidence as to what had caused this or whether it was present or developing at the point of sale. With no further evidence, the investigator didn’t uphold the complaint, confirming Miss E had been able to drive the car for over 11,000 miles after it was supplied, so with no evidence of a fault being present or developing when the car was sold, they couldn’t uphold the complaint.

Miss E didn’t agree with this and asked for an Ombudsman to make a final decision. Whilst waiting for an Ombudsman to be allocated, Miss E contacted us to tell us she had decided to voluntarily terminate the agreement and had given the car back to Moneybarn and supplied a video inspection of her car before she did this, carried out by a mechanic.

The investigator confirmed this didn’t change their mind, and so the case has now been

passed to me 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.

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 E was supplied with a vehicle 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 vehicle 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 vehicle 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 vehicle 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 E to show it was present when the vehicle was supplied.

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

I empathise with Miss E, but the law says that to prove Moneybarn are responsible for the car's faults, she needs to provide evidence of the faults and their causes, to show they were present or developing at the time she acquired the car. And she hasn't supplied this evidence, which would most likely have taken the form of a mechanic report explaining what's happened to the engine and what's most likely to be the reasons for that.

She seems to have assumed that as the car isn't working, and it's clear there is a fault, she won't need to do anything else. But this isn't the case, and as she's now ended the agreement and given the car back, she's no longer able to collect any further evidence.

I've thought about whether she's been given relevant information that this is what she needed to do, and I'm satisfied that she has. Moneybarn with their FRL confirmed that she needed to provide proof of the fault and its causes, and the investigator here also highlighted that we needed proof of the causes and whether they were present or developing at point of sale.

Miss E told us she'd been regularly having to top up the coolant but hadn't raised this issue with Moneybarn or the supplying dealership and couldn't provide proof of the coolant purchases. This might have highlighted a small but easy fix which then became a much bigger problem. But without any evidence showing what's happened, I unfortunately can't be sure one way or the other about this.

Miss E has focused her efforts on providing internet articles/forum posts/reviews about this particular car make and model, and also the supplying dealership. If she has concerns about the behaviour or similar of the supplying dealership, they would need to be raised with the dealer themselves and then the Motor Ombudsman, as this complaint is against the finance company.

Whilst I understand her desire to show that this particular car make and model has a history of problems, including some with the coolant system, this doesn't prove that any of these issues were happening to her car. Not every one of these cars will have had the same issues, and so what I would need to see, to uphold her complaint, would be the proof about the issues her specific car was having, and what had caused them.

Finally, I've considered the video that Miss E sent in of a mechanic examining the car engine before she gave it back to Moneybarn. But again, it just highlights that there is a problem, and doesn't prove or even talk about whether that problem may have been present or developing at the point of sale.

And as per the CRA, the responsibility to provide that proof once it was more than six months since she had been supplied that car, lies with Miss E, not Moneybarn. She had the car for around nine months and drove it for over 11,000 miles before the problem occurred, and as such, without any further evidence, I can't say that Moneybarn have done anything wrong here.

### **My final decision**

I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E to accept or reject my decision before 5 January 2025.

Paul Cronin  
**Ombudsman**