

## **The complaint**

Mrs L complains that Moneybarn No. 1 Limited ("Moneybarn") supplied her with a car that wasn't of satisfactory quality at the point of supply.

## **What happened**

Mrs L took out a conditional sale agreement with Moneybarn in February 2023 to acquire a used car. The car was around eight and a half years old and its mileage at the point of supply was around 77,489. The cash price of the car on the agreement said it was £7,181.65; the agreement was for 60 months; and the regular monthly payments after the advance payment of £286 were £210.

Mrs L said she noticed problems with the car shortly after it was supplied to her. She said she told the supplying dealership about the issues identified, but repairs were not carried out.

An estimate was provided to the supplying dealership for repairs around £1,560. This was to investigate a gearbox oil leak, and the labour costs for removal, inspection and re-installation of it; as well as to replace the steering column shaft.

A vehicle health report completed in April 2023 and produced by another third-party was also given to the supplying dealership by Mrs L in May 2023. And showed, among other things, there was a noise or vibration that needed immediate attention.

Mrs L arranged a further safety inspection by another third-party in July 2023 where it was noted among other things that there was a possible oil leak between the engine and the gearbox, and this required the car to be looked at by the manufacturer's dealership or another workshop. Mrs L also complained to Moneybarn in July 2023.

Eventually, Mrs L arranged for the repairs herself in August 2023 and she said she paid for them in instalments over six months, totalling £866.75. At the point of repair, the car had been driven around a further 3,900 miles and the invoice charged for:

- An investigation to an oil leak which found the leak came from the rocker cover gasket.
- The replacement of the rocker cover gasket.
- A courtesy car which was used during repairs.
- The greasing and reassessment of the steering shaft (at no cost).

Mrs L also had a replacement battery fitted at a cost of £261.44. Mrs L said that paying for these repairs placed a significant financial strain on her as well as impacting her health.

After eight weeks since Mrs L initially complained to Moneybarn she referred her complaint to our service as Moneybarn said they still needed more time to investigate.

Mrs L confirmed to our service that the gearbox leak and the issue with the battery had been fixed and resolved. Mrs L also provided some brief details about loss of earnings and

receipts of costs incurred travelling back and forth to garages to have the car either inspected or repaired.

Mrs L said she would like Moneybarn to reimburse her for the cost of the repairs carried out, as well as to pay compensation for the distress and inconvenience caused. Mrs L also wanted Moneybarn to arrange for other faults to be repaired, which varied from things such as an issue with the steering column; battery; rear exhaust shield; tyres; and fuel flap.

Moneybarn told our service that they were still investigating Mrs L's complaint.

Our investigator found that Moneybarn needed to put things right as he believed there were faults with the rocker cover gasket and the steering column. He thought these were likely present or developing at the point of supply as they first appeared around a month after the car was supplied. The investigator concluded the car wasn't of satisfactory quality when it was supplied, and as it had now been repaired, he found that Moneybarn should reimburse Mrs L for these costs.

Our investigator also looked into other faults Mrs L believed the car to have had, but which hadn't been repaired. He concluded the issues had either been rectified; were wear and tear items on the car which Moneybarn didn't need to repair or reimburse for the cost of replacing; or hadn't been clearly identified as faults from the various inspections and checks completed on the car already.

The investigator also found that Moneybarn should pay Mrs L £500 for the distress and inconvenience she experienced.

Mrs L responded and said on two occasions she had to pay for diagnostic reports at £79 each. She feels she should be reimbursed for these costs as if the car had been supplied in a satisfactory condition, then she would not have had to pay for the reports.

Mrs L provided a copy of a diagnostic report dated 23 March 2023 which quoted the mileage of the car being 78,410 and also proof via a screenshot of her bank statement from July 2023 to show a payment made to a third-party for a report.

The investigator didn't think Mrs L should be reimbursed for the cost of two diagnostic reports because previous reports had identified the faults with the car already and so he didn't think a further report was needed.

Moneybarn responded to the investigator's view and said that they accepted his findings.

Mrs L disagreed with the investigator's findings. Mrs L would like to be compensated for the diagnostic reports as well as loss of income because she couldn't work. Mrs L would also like a replacement car as she was concerned she was paying for a car that had a lot of issues with it.

Mrs L explained that the car recently failed its MOT and it has since been identified that the car has had an engine replacement she wasn't aware of. She also said the current engine was misfiring and the car has now been SORN. Mrs L said she would also like warranty payments she had made investigated. As a result of the car not being driveable, she said she is currently paying an additional £150 for car insurance to use a friend's car.

Mrs L complained to Moneybarn about the engine misfire issue and Moneybarn responded with a further final response in April 2024 not upholding her complaint. In summary, they said the information provided does not confirm the fault with the engine was present or developing at the point of supply. And it said there was no evidence of the engine being replaced.

Mrs L then provided an email which she said was from a garage who had seen the car. This explained following the MOT fail for the car's emissions, it appears the engine was not original and that the engine control unit was not set up correctly for this engine. The garage suggested going to the manufacturer for a repair.

Mrs L also said that she didn't believe the change of engine had been registered with the DVLA.

In May 2024, Mrs L received a letter from Moneybarn providing her with her options for ending her agreement early. This was as she had fallen into arrears on the agreement.

Our investigator considered the new information he had been given and issued a further view. He concluded that Moneybarn didn't need to do anything further. In summary, he found that the current emissions issues with the car appeared to be due to wear and tear and were not present or developing at the point of supply. And he said he'd not seen evidence that the engine had been replaced or that this would mean the car was of unsatisfactory quality.

Mrs L disagreed and believed the new faults were due to the engine not being programmed correctly. And so the complaint was passed to me to decide.

*I issued a provisional decision on 23 August 2024 where I explained why I intended to uphold Mrs L's complaint. In that decision I said:*

*"If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is a fair outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.*

*Mrs L complains about a car supplied to her under a conditional sale agreement. Entering into consumer credit contracts such as this is a regulated activity, so I'm satisfied I can consider Mrs L's complaint about Moneybarn.*

*Mrs L also complains about the warranty she took out for the car. However, the warranty isn't part of the agreement with Moneybarn, so it isn't something I have considered in this complaint.*

*When considering what's fair and reasonable, I take into account relevant law and regulations. The Consumer Rights Act 2015 ("CRA") is relevant to this complaint. The CRA explains under a contract to supply goods, the supplier – Moneybarn here – has a responsibility to make sure goods are of satisfactory quality. Satisfactory quality is what a reasonable person would expect – taking into account any relevant factors.*

*I would consider relevant factors here, amongst others, to include the car's age, price, mileage and description. So, it's important to note here that the car Mrs L acquired was used. I can see this car was over eight years old, cost around £7,180 and had around 77,450 miles on the odometer when Mrs L got it.*

*So, I think a reasonable person would accept that it would not be in the same condition as a newer car and was likely to have some parts that are worn. But a reasonable person would still expect the car to be free from larger faults and would've expected trouble free motoring for a short period.*

*Our investigator initially issued a view which Moneybarn accepted. Mrs L disagreed as, among other things, she believed she should also be compensated for the diagnostic reports as well as loss of income because she says she couldn't work.*

*Moneybarn has accepted that it will reimburse Mrs L for the repairs carried out in August 2023 to the rocker cover gasket and the steering column shaft, as well as to pay Mrs L £500 for the distress and inconvenience caused in this complaint. But for completeness, I have still considered these matters in my decision below.*

*I have also considered Mrs L's points as to why she disagreed with our investigator's initial view – specifically that she feels she should be compensated for diagnostic reports as well as loss of income.*

*I have also considered the further issues that arose with the car, as Mrs L disagreed with our investigator's further findings and I'm satisfied the crux of the complaint is the same, that Mrs L believes the car was not of satisfactory quality.*

#### *Oil leak and steering column shaft*

*I'm satisfied there was a fault with the car. I say this because issues were identified in health checks and diagnostics shortly after the car was acquired which said there was an oil leak which needed to be investigated, as well as an issue to the steering column. And repairs were also carried out, specifically to the rocker cover gasket (which can lead to an oil leak if it fails), as well as to the steering column in August 2023.*

*I've noted the faults first appeared shortly after the car was acquired and were investigated in March 2023. Given the faults appeared within a month of the car being supplied, I'm satisfied the faults with the rocker cover gasket and the steering column were present or developing at the point of supply. And I'm satisfied a reasonable person would consider this meant that the car wasn't of satisfactory quality.*

#### *Diagnostic reports*

*Mrs L says she had to pay for additional diagnostic reports, which she wasn't refunded the money for. Mrs L has showed she paid for one report in July 2023, which cost her £79, but says there were two in total she paid for (the other being in March 2023). Mrs L says she had to pay for the later diagnostic report as the initial one completed in March 2023 wasn't thorough enough and didn't satisfy the requirements the supplying dealership needed to begin repairs.*

*Considering things here, I do think Mrs L should be reimbursed for investigations and diagnostics completed on the car to determine the faults with the oil leak and steering column that were eventually repaired. I think she acted reasonably when she continued to get further reports after the initial diagnosis because she was told the first diagnostic report wasn't enough. So, I don't think it is fair Mrs L should be out of pocket for these expenses she's incurred.*

#### *Taxi journeys*

*Mrs L has supplied receipts of three taxi journey's she made when she didn't have access to her car. One taxi journey was completed on 19 July 2023 for £6.90; another taxi journey was completed on 26 July 2023 for £6.70; and another on the same day for £7.60. In total, the costs were £21.20. I think Mrs L should be reimbursed these costs as she incurred them in attempting to get the car inspected and repaired for faults with the car.*

### Car battery

*Mrs L says she had to replace her car's battery. It's worth noting that a battery is a wear and tear item, which at some point will likely need replacing. The battery needed to be replaced around six months after the point of supply and Mrs L had been able to cover around 4,000 miles in the car. So I'm satisfied it didn't have a fault present or developing at the point of supply. It follows that I don't think Moneybarn needs to do anything in relation to this matter.*

### Rear exhaust heat shield

*I've noted that a quote in March 2023 was given to Mrs L for the repair or replacement of the rear exhaust heat shield. But I haven't seen it noted consistently in other health reports or investigations that were carried out to the car. In any event, even if I was to consider it a fault with the car, I'm not persuaded this in itself would mean the car was of unsatisfactory quality at the point of supply, given the age of the car, its mileage and the price paid to acquire the car.*

### Car tyres

*Thinking about the tyres, it is worth noting that they are wear and tear items, which after use, will need replacing. I have also noted that a MOT completed on the car at around the time it was supplied didn't indicate there was an issue with the tyres or that they were past the legal limit. And the tyre tread of the tyres were not consistently noted in health reports or investigations later carried out to the car. I think it's most likely the tyres were road legal and safe when the car was supplied, which is what I think a reasonable person would expect. So, I don't think Moneybarn needs to do anything in relation to this matter.*

### Fuel flap

*I've thought about the fuel flap, which Mrs L said didn't lock when it should have. The repairs carried out in August 2023 also show that the fuel flap was looked into and they found that there wasn't a fault with it. So, I don't think Moneybarn needs to do anything in relation to this matter.*

### Engine emissions and engine misfire

*Mrs L says the car failed its MOT and it had an engine replacement she wasn't aware of. She went on to say that the engine was misfiring and the car is now SORN. And she believes the new issues were due to the engine not being programmed correctly.*

*Mrs L also provided an email from a mechanic which said it appeared the engine wasn't original. But I've noted the mechanic also said for the car to be taken to the manufacturer's dealership to have the issue looked into.*

*I'm satisfied there is a fault with the car as it hasn't managed to pass its two most recent MOT's. On both occasions, the MOT's failed due to an issue with the car's emissions, meaning emissions tests couldn't be completed. So I now need to consider whether this fault was present or developing at the point of supply.*

*I've noted the car passed its MOT in February 2023, with no advisories, with a mileage reading of 77,499. A failed MOT certificate shows the car's odometer reading was 88,175 miles in February 2024. So, within a year, and since the car was supplied to Mrs L, it had been driven for around 10,700 miles.*

*I'm also mindful that the car was already over eight years old at the point of supply and no evidence, such as an independent inspection report, has been provided which shows the fault with the car was present or developing at the point of supply.*

*Considering everything here, I don't think the faults with the engine emissions and it misfiring was present or developing at the point of supply. Or, if the engine had been replaced, that there was a fault with it at the point of supply. I say this because I think the issues would have presented themselves much sooner if they were. I think it is more likely it is a result of fair wear and tear, given the age and mileage of the car. It follows I don't think these faults mean the car wasn't of satisfactory quality at the point of supply.*

#### Loss of earnings

*Mrs L would like to be compensated for loss of earnings for when the inspections and repairs were carried out and also during the end of October 2023 when she says she went off sick for work.*

*I've noted that the job sheet for the repairs carried out in August 2023 say a courtesy car was provided. So I don't think she should receive loss of earnings here as she was able to be mobile in another car.*

*Mrs L also says she lost around £400 for being off work towards the end of October 2023. While I am sympathetic to what Mrs L has said here and the reasons why she says she was unable to work, there isn't clear enough evidence for me to directly link the situation to this complaint.*

*So I'm not persuaded that Moneybarn needs to take any action here.*

#### Insurance for an additional car

*Mrs L has also told us about the costs she's incurred insuring a different car when hers broke down and couldn't be used due to not passing its MOT. I don't think Moneybarn should reimburse Mrs L for these costs, as I've already said above, I don't think those specific faults mean the car wasn't of satisfactory quality at the point of supply.*

#### Putting things right

*One of the remedies available to Mrs L if a car is found to be of unsatisfactory quality under the CRA is repair. In this instance, I can see the faults which made the car of unsatisfactory quality were repaired and were due to be paid for by Mrs L. And, these repairs also resolved those faults with the car.*

*Mrs L was to pay £866.75 for the repairs. Payments were due to be made in five instalments of £144.46 on 18 August 2023; 1 September 2023; 2 October 2023; 1 November 2023; and 1 December 2023. A final, sixth instalment of £144.45 was to be paid on 12 January 2024. So, I think it is fair for Moneybarn to reimburse Mrs L for the costs she incurred in having the car repaired. By doing so, I'm satisfied Mrs L's rights under the CRA will be broadly met.*

*Mrs L later said she would like a replacement car as she was concerned she was paying for one that had a lot of problems with it. While a replacement is another remedy available to Mrs L under the CRA, the repair has already been carried out, so I think a reimbursement of costs for the repairs already completed is fair and reasonable.*

#### Distress and inconvenience

*I've also considered the distress or inconvenience Mrs L experienced due to the fault with the car. I'm mindful that Mrs L experienced a fault early on into her agreement, and had to take the car for diagnostic checks fairly often to attempt to resolve the issue. Mrs L attempted to resolve things with the supplying dealership, but was unsuccessful. Mrs L also complained to Moneybarn but didn't receive a final response to her complaint. All this led Mrs L with no option but to pay for repairs herself to keep her on the road. I'm also mindful of the time it took for repairs to be carried out and the financial impact this has had on her, considering she had to pay for the repairs in instalments, as well as the impact this complaint has had on her mental health. Considering things here, I think Moneybarn should pay Mrs L £500 for the distress and inconvenience caused."*

I set out that I intended to uphold this complaint. And I gave both parties the opportunity to send me any further information or comments they wanted me to consider before I issued my final decision.

#### Responses to the provisional decision

Mrs L responded and said, among other things that she still feels strongly that the replacement engine is of an issue. She believes this information should have been made aware to her before she acquired the car, as she believes she would not have done so had she known a foreign engine was in the car. Mrs L also said that DVLA advised her that they should have been informed of the engine change.

Mrs L also explained that she has not been able to take the car to the manufacturer's garage as was recommended.

Mrs L also believes the distress and inconvenience award I intended Moneybarn to pay was not enough.

Moneybarn responded and said they accepted my suggested settlement of the complaint.

As both parties responded before the deadline I set, I went on to reach my 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'm not persuaded to change my opinion from the provisional decision I made.

I mean no discourtesy to Mrs L to summarise her complaint points as brief as I had above. I appreciate the further comments she has made about the engine. But as I explained previously, if the engine had been replaced, I don't think there was a fault with it at the point of supply. I say this because I think the issues would have presented themselves much sooner if they were.

And I'm satisfied I had taken Moneybarn's actions into account when determining the outcome to this complaint and the distress and inconvenience award they should pay Mrs L.

In summary, I think Moneybarn needs to do more in this instance to put things right. I'm satisfied the outcome reached is fair and reasonable given the circumstances.

## **My final decision**

For the reasons I've explained, I uphold this complaint and I instruct Moneybarn No. 1 Limited to put things right by doing the following:

- Reimburse Mrs L £866.75 for the repairs completed on 29 August 2023. Payments were due to be made in five instalments of £144.46 on 18 August 2023; 1 September 2023; 2 October 2023; 1 November 2023; and 1 December 2023. A final, sixth instalment of £144.45 was to be paid on 12 January 2024. \* \*\*
- Reimburse Mrs L £79 for the diagnostic report completed on the car in March 2023 which showed problems with an oil leak and steering column. \* \*\*
- Reimburse Mrs L £79 for the diagnostic report completed on the car in July 2023 which showed problems with an oil leak and steering column. \*
- Reimburse Mrs L £21.20 for the costs she's incurred in taxi journeys. One taxi journey was completed on 19 July 2023 for £6.90; another taxi journey was completed on 26 July 2023 for £6.70; and another on the same day for £7.60. \*
- Pay Mrs L £500 for the distress and inconvenience this complaint has caused her.
- Remove any adverse information from Mrs L's credit file in relation to this specific complaint, if any.

\* These amounts should have 8% simple yearly interest added from the time of payment to the time of reimbursement. If Moneybarn considers that it's required by HM Revenue & Customs to withhold income tax from the interest, it should tell Mrs L how much it's taken off. It should also give Mrs L a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue and Customs if appropriate.

\*\* This should be paid to Mrs L on production of evidence to Moneybarn to show that payment(s) were made by her.

If Moneybarn has already given compensation in relation to this specific complaint, the final amount should be less the amount already given.

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

Ronesh Amin  
**Ombudsman**