

## **The complaint**

Mr U complains about the quality of a car that was supplied to him by Moneybarn No. 1 Limited "Moneybarn" under a conditional sale agreement.

## **What happened**

In December 2022 Mr U entered into a Conditional Sale agreement with Moneybarn for the supply of a used car. The cash price of the car was £4,995 and Mr U paid a deposit of £75.

Mr U experienced issues with car shortly after it was supplied and in January 2023 the timing chain was replaced by the supplying dealer.

Around three months after this the car was recalled by the manufacturer for an unrelated issue. While the car was with the manufacturer it advised there was a substantial oil leak from the timing chain and two fixings were snapped in the rocker cover.

Mr U complained to Moneybarn and to the credit broker about the quality of the car. The credit broker arranged an independent inspection of the car in July 2023. Following the inspection, the expert concluded that the car was displaying a heavy oil leakage and broken fixings which required replacement. It said these issues would have been ongoing since the point of supply and said the car was not of satisfactory quality when it was supplied.

Mr U obtained a quote from a garage to fix the damage identified of £4,517.34.

The supplying dealer offered to take the car back from Mr U. The credit broker informed Moneybarn of this in August 2023. Mr U wasn't happy with the dealer's offer because he wanted the car repaired. He made a complaint which Moneybarn responded to in December 2023. It said that repairing the car was uneconomical as the repairs were going to cost nearly as much as the cash price of the car. It concluded that it didn't need to do anymore as a resolution had been offered by the dealer. Moneybarn did however offer to pay Mr U £75 for a delay in responding to his complaint.

Dissatisfied with this, Mr U referred his complaint to this service.

An investigator thought that rejection of the car was the fairest remedy given the quoted cost of repairs. She thought Moneybarn should allow Mr U to reject the car, repay his deposit and pay him an additional £150 for distress and inconvenience.

Mr U did not accept the investigator's assessment and asked an ombudsman to review his complaint.

## **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 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 ('CRA') 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 CRA says the quality of goods is 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 car supplied to Mr U was ten years old and had around 117,000 miles on the clock. So, it's fair to say that the reasonable person would accept that it's likely to require more repairs and maintenance than a newer, less road worn car, perhaps significantly more given its age and mileage.

That being said, it does not appear to be in dispute in this case that the car was not of satisfactory quality when it was supplied. An independent expert has concluded this and Moneybarn accepts it too. I've seen nothing within the available evidence that leads me to conclude any different.

What remains for me to decide here is the fairest way to put things right. Mr U wants Moneybarn to pay for the repairs. Moneybarn says this is uneconomical and rejection and termination of the conditional sale agreement is the fairest remedy.

In deciding what the fair remedy should be, I am mindful that one failed attempt at repair has already taken place and the car still requires significant further repairs relating to the timing chain. A further attempt may well fix the issue, but it's possible given the car's track record since it was supplied to Mr U that it might not.

There is also no getting away from the fact the cost of these repairs in the quote that Mr U provided is almost as much as the cash price of the car at the start of the agreement. Given the additional mileage Mr U has put on the car since supply, it's quite possible the cost now exceeds the likely value of the car.

All of this considered, while I understand Mr U's strength of feeling on the matter, I find it would be disproportionate to require Moneybarn to pay for the repairs. I find that allowing Mr U to reject the car, relieving him of his remaining obligations to make payment for it and returning his deposit is the fairest way to put things right in this case. This way Mr U only pays for his use of the car.

Mr U drove around 15,000 miles in the car between December 2022 and November 2023. This is more than what might reasonably be considered 'average' use in that period of time. It seems therefore that he's had full use of the car during this period despite the issues he's experienced with it. Mr U also told us very recently that he was still driving the car – but he didn't tell us what the current mileage was when we asked him. The CRA makes provision in the event of rejection that any refund may be reduced by a deduction for use. And in any event it seems fair to me given Mr U's above average usage of the car that he pays for this. In this case I find a fair and appropriate deduction for use to be a sum equivalent to the monthly payments Mr U has made to date.

The investigator recommended that Moneybarn pay Mr U £150 compensation for the distress and inconvenience he was caused by the problems with the car. This was in addition to the £75 Moneybarn had already paid him for a delay in responding to his complaint. I find this to be fair compensation in the circumstances for both the inconvenience of having to take the car to various garages and also because it appears Mr U was without

his car for a couple of weeks with no courtesy replacement while it was being fixed.

### **My final decision**

For the reasons I've explained above I uphold Mr U's complaint. To put things right Moneybarn No. 1 Limited must:

- Allow Mr U to reject the car and arrange for the car to be collected from him at no cost to him.
- End Mr U's conditional sale agreement.
- Refund Mr U's deposit of £75 and pay him simple interest of 8% per year on this sum from 19 December 2022 until the date of settlement\*.
- Pay Mr U £150 for distress and inconvenience and loss of use.

\*If Moneybarn No. 1 Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr U how much it's taken off. It should also give Mr U a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr U to accept or reject my decision before 9 October 2024.

Michael Ball  
**Ombudsman**