

The complaint

Mr L complains about the quality of a used car he acquired through a conditional sale agreement with Moneybarn No. 1 Limited ('Moneybarn'). Mr L says that he has had problems with the car from the start and he would like to return it.

What happened

Mr L's complaint is about the quality of a car he acquired in August 2023. The car was used, and it was first registered in November 2017. So, it was just under six years old when Mr L received it. It had covered 80,390 miles.

Mr L acquired the car using a conditional sale agreement that was started in August 2023. The vehicle had a retail price of £9,850 and Mr L financed the full amount of this. This agreement was to be repaid through 59 monthly instalments of £357.30. Based on the statement of account an outstanding balance remains due. If Mr L made the repayments in line with the credit agreement, he would need to repay a total of £21,080.70.

Below is a summary of the issues complained of by Mr L and the investigation and repair work that has been carried out by the dealership, alongside what has happened in respect of the complaint. The car has also been considered by an independent reporting company.

Mr L said he collected the car on 31 August 2023. He says that on 22 September 2023 it developed a fault with what he thought was the engine. He said that the car had a reduced power output, there was an engine management light ('EML') showing and the car was entering limp mode at times. He says he was advised not to drive it by the finance broker and contact the dealership.

Mr L said that the dealership wouldn't transport the car and so he paid for this himself. He said the car alarm was active for a lot of the time the car was being transported. At the dealership, when it looked at the vehicle, it said that it was not in limp mode and no EML was showing. It believed the battery needed replacing. I understand the dealership has replaced the battery and it performed some diagnostics on the car that showed that it didn't have any faults.

Mr L didn't take back the car as he felt that it had developed a fault within 30 days, so he should be able to return it. I understand it was stored offsite at a third party car storage and auction business.

Mr L complained to Moneybarn on 13 October 2023 saying he had problems with the car entering limp mode and some warning lights were displayed. Moneybarn considered this first complaint, and it didn't uphold it. It said that the problems with the car at this point were due to a battery issue. The battery was replaced at no cost to Mr L and diagnostic tests showed the car had no further faults.

Mr L brought this complaint to the Financial Ombudsman Service. Our Investigator didn't uphold Mr L's first complaint. He said that the battery problem was repaired, and this fault didn't indicate that the car wasn't of satisfactory quality. This was because the battery

becoming old was likely due to normal wear and tear. There wasn't any evidence of the problems that Mr L had described being ongoing and the car didn't seem to have any inherent faults. Mr L didn't respond to this, and the complaint was closed.

Mr L agreed to collect the car in early 2024 from the third party business and he made a further complaint at this time. He said that when he collected the car there was a lot of cosmetic damage, paint flakes and the spoiler was broken. He also said that the car was still in limp mode. He still wanted to unwind the agreement.

Moneybarn considered this second complaint, and it didn't uphold it. After some investigation into the car's history Moneybarn had the car inspected by an independent reporting company. This report concluded that the car did have reduced power, this was due to a diesel particulate filter ('DPF') regeneration that had failed. The report concluded that this was due to general wear and tear. Moneybarn didn't think that the car wasn't of satisfactory quality. It did pay Mr L £100 for the length of time that it took to investigate his complaint.

Mr L didn't agree with this and brought this second complaint to the Financial Ombudsman Service.

Our Investigator didn't uphold Mr L's second complaint. He said that that the car seemed to have a fault in that the engine was not producing the correct amount of power. But the independent report had said that this was probably due to the aborted DPF regeneration. The report also confirmed that the car was driving correctly. The problems were due to a reasonable level of wear and tear.

Mr L didn't agree with the Investigator. He said that the problems he now had with the car were the same as those at the start and so he still wanted to reject the car. Because Mr L didn't agree, 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 was 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 – considering 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 consider might include things like the age and mileage at the time of sale and the car's history.

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 this.

This car was over five years old when Mr L acquired it and it had travelled around over 80,000 miles. I think a reasonable person would accept that such a vehicle would probably have some parts that are worn and would need replacing sooner or later – which is reflected in the lower price paid in comparison to a new vehicle.

But there's also a reasonable expectation that a vehicle will be relatively durable - taking into account its age, price and mileage at the outset. So even though the vehicle wasn't new, Mr L should have been able to use it for a reasonable period of time before it needed significant work.

Was there a fault with the car

I think it's reasonable to say that the car needed a new battery shortly after Mr L had acquired it. And there is, or was, a problem with the engine producing lower power and or it being in limp mode. This seems to be due to the DPF and related systems. So, the car has had some faults over the time that Mr L has used it.

Was the car of satisfactory quality bearing in mind the fault

Whilst I have noted these faults and problems, this doesn't necessarily mean that the car wasn't of satisfactory quality at the time of supply. The overriding factor here is that this was a used car that had travelled a significant number of miles before Mr L acquired it. So, it was always going to need some repairs and maintenance over time, as it did. I've thought about whether the work that the car needed was reasonable for a car of this age and prior usage.

I think the issues that Mr L has found with the car are related to ordinary wear and tear rather than the car not being of satisfactory quality. I'll explain why below.

Mr L's first complaint was about the car battery. I won't revisit the circumstances or outcome in this complaint as the battery was replaced and this complaint was resolved some time ago.

Mr L's ongoing complaint doesn't seem to be about the same issue, it is about the problems he had with the engine power output.

The problems with the lower power output were looked at in the independent report. This report noted that some engine warning lights, and information from the car, indicated that the engine power was reduced due to the car clearing the DPF and that it should continue to be driven. The car was also driven by the reporting company, and they found that it was driving normally. The report concluded that:

'In our opinion we do not consider this condition was present or developing at commencement of hire and DPF blockages, which require a DPF regen, are normally the result of the type of use the vehicle has been subject to. We therefore consider that there is no evidence to suggest that the issues were present or developing at commencement of hire and are not connected with the battery replacement previously undertaken.'

Mr L thinks that the problems he had when he first acquired the car were the same as the ongoing problem with the DPF system. But both a worn battery, and a DPF regeneration, could cause loss of power in a car. And there is no persuasive evidence that the two were linked. But in any event a DPF regeneration is something that can occur in this type of vehicle from time to time, depending on driving style. And I don't think it was indicative of the car being faulty.

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.

Mr L has complained that the car was damaged when it was in storage. For completeness Mr L should raise this with the business that stored the car if he considers this to be the case.

My final decision

For the reasons set out above, I don't uphold Mr L's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 30 May 2025.

Andy Burlinson
Ombudsman