

The complaint

Miss W complains that Secure Trust Bank Plc trading as Moneyway has supplied her with a faulty car. Miss W wants to either reject the car or have it repaired.

What happened

Miss W entered into a hire purchase agreement with Moneyway to acquire a car. The agreement started in April 2022. The car was a used car which was initially registered in September 2014, so by the time Miss W acquired the car it was nearly eight years old. At the point of sale, the car had a mileage of 74,064.

The cost of the car was £10,689 and Miss W paid a deposit of £400, so she borrowed a total of £10,289 to finance the acquisition of the car. The cost of credit was £7,812.32 including a £10 option to purchase fee. The agreement was due to run for 52 months with 51 monthly repayments of £347.91 and a final payment of £357.91.

Miss W says the car is faulty and was faulty from the point it was supplied to her. Miss W has provided a diagnostic report, reports from a breakdown recovery service and pictures of the car's dashboard showing the mileage.

Miss W says within a short time of the receiving the car, there were issues with the engine control unit (ECU) which she says the dealer repaired, although neither Miss W nor the dealer have provided evidence about this fault and repair from the time.

Miss W contacted Moneyway in November 2023 to ask for a settlement figure on the agreement. Miss W said she was having lots of issues with the car and the dealer had offered her the opportunity to trade it in for another car although I can't see that she traded the car in at the time. In May 2024, Miss W contacted Moneyway again and raised a complaint about the quality of the car.

Moneyway requested an independent report to show the car had a fault present or developing at the point of sale. Miss W provided the diagnostic report from a garage showing intermittent faults and another report from November 2023 showing issues with the tyres and suspension. Moneyway said it wouldn't accept that as evidence there was a fault with the car at the point of sale.

Miss W referred her complaint to the Financial Ombudsman Service where it was looked at by one of our investigators. Our investigator didn't recommend that Miss W's complaint be upheld. Our investigator agreed there was a fault with the car but thought the fault was a result of natural wear and tear and not something that was present at the time of sale. Miss W didn't accept this and asked for an ombudsman's 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 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 W was supplied with a car under a regulated consumer credit agreement which means we're able to look into complaints about it.

Both parties have provided a good deal of information, I want to assure the parties, if I don't mention every single point that's been raised, it's not because I haven't thought about it. I have considered everything that's been said and sent to us. However, I'm going to concentrate here on what I consider is key to reaching a fair and reasonable outcome overall.

Miss W says the car was faulty from the start and this gives her the right to either a repair or rejection of the car. So, I need to decide whether the car was of satisfactory quality when it was supplied to Miss W and if I don't think it was, what is fair, if anything, to put things right in the circumstances.

The Consumer Rights Act 2015 ("CRA") covers the agreement in this case and under this agreement, there are implied conditions that the goods supplied will be of satisfactory quality.

Miss W acquired a car that was used – so there would be different expectations compared to a new car. In these circumstances, the car may need maintenance and repair sooner than a newer car. Having said that, the car's condition at the point of supply, should have met the standard a reasonable person would consider satisfactory, taking into account its age, mileage and price. The CRA says the aspects of the quality of the goods includes their general state and condition alongside other things such as their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability.

Having considered all the information, I think it is likely there is a fault with the car. I say this because the most recent diagnostic report from November 2023 on the car identifies issues with the car's suspension along with issues with the tyres.

I now need to consider whether this fault makes the car of satisfactory quality.

As stated above, this was a used car when Miss W acquired it. It had done more than 70,000 miles and the recent MOT from 2023 shows the car had 81,243 miles on the odometer. I acknowledge Miss W has sent a photo of the car's dashboard showing 74,865 which she says was at the time the car first broke down in November 2022.

By the time Miss W carried out the most recent MOT, the car had done around 7,000 miles more compared to the time she acquired it. I think given the age and mileage of the car it is reasonable to expect a level of wear and tear in the circumstances.

Miss W's car broke down in November and December 2022 and the breakdown issue identified battery problems, in my view I don't think these issues at the time of breakdown meant the car was of unsatisfactory quality.

I haven't seen evidence to suggest the car was fitted with a new battery when Miss W acquired it and as it was a used car, it is not unexpected for there to be a need for repair and maintenance sooner than a brand-new car.

Miss W says she had problems with the ECU shortly after acquiring the car. There is a diagnostic report and a breakdown report which confirms that fault codes are stored for the ECU. There is also an invoice stating there is excessive ball joint play and that a spring coil is broken.

However, what isn't confirmed is why these issues are occurring. The breakdown report confirms a possible electrical issue, but it says further investigation is required. None of the other supporting information provided states what caused the issue. Further information showing this hasn't been provided by Miss W.

Essentially for me to find that the car was of unsatisfactory quality when Moneyway supplied it to Miss W, I need to be persuaded that there was a fault that was present or developing at the time of sale.

I'm also mindful that the car passed its MOT while in Miss W's possession which suggests that there were periods where the car wasn't faulty as this would likely have shown up in the results of the MOT test.

So, while Miss W has provided diagnostic reports about issues with the car, I haven't seen anything that persuades me that these issues were present or developing at the time of sale.

The first breakdown report was in November 2022 more than six months after Miss W had acquired the car. The subsequent reports also do not trace a fault from the start of the agreement. Miss W has said she has carried out repairs to the car but hasn't provided any evidence of what the exact faults were, when they occurred or what repairs were carried out.

Given all the information I've seen, in the absence of any supporting information showing otherwise, I think the faults with the car likely occurred while in Miss W's possession and are likely a result of wear and tear which isn't unexpected given the age and mileage of the car.

While I appreciate Miss W's strength of feeling, I won't be asking Moneyway to take any steps to put things right for Miss W as I'm not persuaded it has done anything wrong.

There is some correspondence between Moneyway and Miss W that suggests the dealer was open to her trading the car in for another, Miss W may choose to explore this option further should she wish to. She will need to contact the dealer or Moneyway directly to arrange this.

Miss W has also said she was told the warranty will cover her repair costs but that hasn't been the case. This isn't an issue that the concerned business has dealt with and if this is a point Miss W wishes to pursue, she will need to raise it with the relevant business responsible for the warranty in the first instance.

My final decision

For the reasons given above, I do not uphold this complaint or make an award against Secure Trust Bank Plc trading as Moneyway.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 7 February 2025.

Oyetola Oduola
Ombudsman