

## **The complaint**

Ms C is unhappy that a car supplied to her under a conditional sale agreement with Moneybarn No. 1 Limited ("Moneybarn") was of an unsatisfactory quality. She said she wouldn't have bought the car if she'd known its repair history and felt it was mis-sold.

When I refer to what Ms C has said and what Moneybarn has said, it should also be taken to include things said on their behalf.

## **What happened**

In March 2023, Ms C entered into a conditional sale agreement with Moneybarn for the supply of a used car. The cash price was £8,995 and Ms C agreed to an initial payment of £921, followed by 35 monthly payments of £297.99. At the time of supply, the car was around 10 years old and had done 56,307 miles.

### First complaint

Ms C said the car was not supplied to her until two weeks after she entered into the agreement. She experienced faults with it that needed to be repaired. In June 2023, Ms C complained to Moneybarn and on 12 September 2023 it issued a final response. Moneybarn confirmed that the repair costs had been reimbursed, and it paid £50 compensation in recognition of the time taken to investigate her complaint.

### Second complaint

In March 2024, Ms C complained to Moneybarn that the car had been mis-sold to her. She said she'd received details of the car's history, and she was unhappy that Moneybarn hadn't disclosed this to her. Ms C said she wouldn't have bought the car if she'd known it hadn't been roadworthy in 2023, and she was concerned it wouldn't last for the duration of her agreement.

Moneybarn issued its final response on 19 June 2024. It said there was no evidence that the car had any current faults, it had passed its MOT without issue, and the mileage had increased by over 15,000 miles since supply. Therefore, Moneybarn thought the car had been of satisfactory quality and Ms C had had significant use before raising her concerns about its repair history. Moneybarn didn't uphold Ms C's complaint, although it paid £75 for the time taken to investigate.

Unhappy with Moneybarn's response, Ms C brought her complaint to us. Our investigator said Ms C hadn't brought her first complaint in time so we couldn't look at its merits. In respect of the second complaint, our investigator said there was no evidence that Moneybarn had mis-sold the car to Ms C, or that it was not of satisfactory quality. Our investigator didn't think there was anything for Moneybarn to put right.

Ms C didn't agree. She said:

- it wasn't fair that she was expected to pay for a car that was never roadworthy;

- the finance and delivery date were two weeks apart;
- the car had to go into the garage within days of supply;
- it had never been reliable and she chose not to drive it.

Because Ms C didn't agree, the complaint was 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.

Having done so, I've decided not to uphold Ms C's complaint for broadly the same reasons as our investigator. I'll address the two complaints separately.

#### First complaint

I can only consider the merits of a complaint in circumstances where I have jurisdiction to review things under the rules which govern us.

The rules about time limits and whether our service can look into the merits of a complaint are set out in the Financial Conduct Authority's Handbook. DISP 2.8.2R(1) says that we cannot consider a complaint if it's referred to us more than six months after a financial business sends its final response and if the financial business doesn't consent to us looking at it.

Ms C complained to Moneybarn in June 2023 and Moneybarn issued its final response on 12 September 2023. I can see that the letter set out Ms C's right to refer her complaint to our service within six months of the date of the letter. That means Ms C would've needed to bring her first complaint to us by 12 March 2024. If she brought it after that date, we would need permission from Moneybarn to consider the merits of the complaint.

Looking at the evidence, I see Ms C brought her first and second complaints to us, together, in July 2024. She did not bring the first complaint before 12 March 2024, which means her first complaint was brought out of time. And Moneybarn has not given us permission to consider Ms C's first complaint.

DISP 2.8.2R(1) allows us to look at the merits of a complaint brought out of time if we consider the failure to comply with the time limits was as a result of exceptional circumstances. The evidence I've seen indicates that Ms C accepted that her first complaint had been resolved with Moneybarn's £50 compensation payment and the reimbursement of the repair costs. She didn't pursue the complaint further at that time, and she hasn't described any exceptional circumstances for not bringing her complaint sooner.

Our service is bound by the rules we have to follow. As Ms C brought her complaint after six months had passed from the date of Moneybarn's September 2023 final response, there's no evidence of exceptional circumstances, and Moneybarn hasn't given us permission, I'm satisfied that we are not able to consider the merits of Ms C's first complaint.

When Ms C responded to our investigator's view, the first three points she made, as set out above, related to this first complaint. So, to confirm, I haven't addressed those points of her response.

#### Second complaint

The Consumer Rights Act 2015 (CRA) covers agreements such as the one Ms C entered into. Under this agreement, there is an implied term that the goods supplied will be of satisfactory quality. The CRA says that goods will be considered of satisfactory quality where they meet the standard that a reasonable person would consider satisfactory – taking into account the description of the goods, the price paid, and other relevant circumstances. I think in this case those relevant circumstances include, but are not limited to, the age and mileage of the car and the cash price. The CRA says the quality of the goods includes their general state and condition, as well as other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability.

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

Looking at the information provided by both Ms C and Moneybarn, I haven't seen any evidence that the car has a current fault. Ms C said the car has never been reliable and she's stopped using it. The invoices Ms C provided are for faults which were repaired, and addressed by Moneybarn in its response to her first complaint. I've noted one invoice, from November 2023, which was after her first complaint. But I haven't been provided with any evidence to suggest that the fault is ongoing, that it was present at the point of supply, or that it was anything other than general wear and tear.

I've looked at the MOT history. While I understand that it only covers a select list of issues, I note that Ms C's car passed the MOT when it was supplied to her and, after a second test, it passed again in April 2024. I note that there's no evidence of an up-to-date MOT, so I can't draw any conclusion from that about the car's reliability.

Given the age of the car, and the fact that Ms C had it for a year before raising this second complaint, she'd be responsible for demonstrating that there's a fault and that it was present at the time the car was supplied to her. In the absence of any such evidence, I've concluded that there's nothing for Moneybarn to put right in respect of this point.

### Mis-sale

Ms C said Moneybarn mis-sold the car to her. She based her opinion on the invoices for repairs to the car over the years before it was supplied to her. Moneybarn said the car was of satisfactory quality when it was supplied to Ms C and the MOT history confirms that it was roadworthy. It doesn't agree that the car was mis-sold.

Under the Consumer Credit Act 1974 (CCA), Moneybarn may be responsible if the car had been mis-represented at the point of supply. I've looked at the invoices Ms C provided. They show that repairs were carried out in the years before she entered into the conditional sale agreement. But a history of repairs doesn't mean Moneybarn mis-sold the car. The CCA says that Ms C must've been given a false statement of fact about the car and that the statement induced her into buying it for it to be considered misrepresentation. Ms C hasn't provided any evidence that she was given a false statement of fact or that she bought the car based on any such statement.

Based on the evidence, and taking into consideration the CCA, I see no reason to conclude that the car was mis-sold to Ms C. Therefore, I don't find anything for Moneybarn to put right.

### **My final decision**

For the reasons explained, I don't uphold Ms C's complaint about Moneybarn No. 1 Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 10 July 2025.

Debra Vaughan  
**Ombudsman**