

## The complaint

Mr M complains about the quality of a car supplied to him by Secure Trust Bank Plc trading as Moneyway ("Moneyway") under a hire purchase agreement ("agreement").

## What happened

In October 2022 Mr M entered into an agreement with Moneyway for a nine and half year old car with 81,000 miles on the odometer. The cash price of the car was £11,000.00. The car passed its MOT test on 8 September 2022 having failed it on 3 September 2022.

Under the terms of the agreement, everything else being equal, Mr M undertook to make 59 monthly payments of £348.33 and 1 of £358.33 making a total repayable of £20,909.80 at an APR of 33%.

On 10 December 2022 Mr M contacted Moneyway to complain about a number of faults with the car, in particular an oil leak.

On 3 January 2023 Moneyway had an inspection on the car carried out by an engineering company that I will call "S" when the car had a recorded odometer reading of 83,538 miles. S concluded that the selling dealership should, at its cost:

- inspect the steering geometry and repair if required
- provide Moneyway with a copy of a steering geometry report following inspection and/or repair
- replace the two front tyres
- rectify the headlamp issues
- investigate the source of the oil leak and repair
- undertake an extended road test of the car following all identified repairs being completed

It also confirmed that the VIN sticker had been removed from the offside B post and that there was cosmetic damage to the rear bumper.

On 12 January 2023 Mr M paid for the following with the mileage noted as being 84,141:

- |                                       |         |
|---------------------------------------|---------|
| • two front tyres                     | £180.00 |
| • removal of broken locking wheel nut | £36.00  |
| • one rear tyre                       | £109.20 |
| • engine oil                          | £18.00  |
| • total                               | £343.20 |

In February 2023 Moneyway, having had sight of S' inspection report, advised Mr M that it was upholding his complaint and that the selling dealership would be in touch to undertake repairs identified by S as being necessary and to refund him the cost he incurred in replacing the two front tyres on the car himself.

In March and June 2023 Mr M contacted Moneyway to say his car had yet to be repaired.

In July 2023 Mr M got a quote to repair the oil leak at a cost of £1,845.00. This quote noted that there might be turbo damage and there were signs of accident damage. The mileage was noted as being 85,621.

In August 2023 Mr M referred matters to our service for investigation.

In September 2023 Moneyway issued Mr M with a final response letter ("FRL"). Under cover of this FRL Moneyway said that the selling dealership was, and had always been, prepared to undertake repairs identified by S as being necessary and this constituted, in its opinion, a fair and reasonable resolution to Mr M's complaint.

On 16 October 2023 the car failed its MOT test at 91,242 miles.

On 19 October 2023 the car passed its MOT at 91,242 miles.

On 20 October 2023 Mr M paid a garage that I will call "G" £608.14, £568.14 being for repairs and £40.00 being for an MOT test. The repairs undertaken were for the supply and fit of a new tyre, coil spring and side repeater.

In November 2023 Mr M stopped using the car with a recoded mileage of 92,634. He said he stopped using the car due to the original faults having gone unrepaired and as a result of new faults having developed.

In November 2023 Moneyway advised Mr M it was preparing to issue a default notice.

On 25 December 2023 Moneyway terminated Mr M's agreement. At this point in time, and having paid it £2,177.10, Mr M was £2,315.19 ( $[\pounds348.33 \times 13]$  less £2,177.10) in arrears and still owed £18,732.70.

In January 2024 one of our investigators came to the view that Moneyway should:

- arrange for what S had identified should be undertaken by the selling dealership (with the exception of replacing the two front tyres) to be undertaken by another garage
- pay Mr M the £343.20 he paid for two new front tyres together with interest
- pay Mr M £100.00 in compensation

Mr M accepted the investigator's view but Moneyway didn't.

On 30 September 2024 Mr M was £5,834.49 in arrears ( $[\pounds348.33 \times 23]$  less £2,177.10) and still owed £18,732.70.

On 18 October 2024 the MOT on the car expired.

In November 2024, and having considered Moneyway's reasons for not accepting their January 2024 view, our investigator came to the view that Moneyway need do nothing to compensate Mr M.

Mr M disagreed with the investigator's (second) view so his complaint was passed to me for review and decision.

In January 2025 I issued a provisional decision on this case. In summary I said:

*I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*I've read the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point or particular piece of evidence, it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome. Our rules allow me to do this, reflecting the fact that we are an informal free service set up as an alternative to the courts.*

*I would also add that where the information I've got is incomplete, unclear or contradictory, I've to base my decision on the balance of probabilities.*

*Mr M acquired a used car through an agreement with Moneyway. Moneyway is the owner of the car and also the supplier of it to Mr M. As the supplier Moneyway is responsible for the quality of the car at the point it was supplied. This is because the Consumer Rights Act 2015 ("CRA") implies a term around satisfactory quality into the agreement and the car should therefore be of satisfactory quality when supplied to Mr M.*

*I think it's important to note that Moneyway's obligations around the quality of the car apply to the time of supply. They don't apply to the general upkeep and maintenance, servicing or more general faults and repairs that are often required with cars as they age and increase in mileage.*

*As already referred to above, Moneyway is responsible for the quality of the car at the time it is supplied and not all ongoing issues or problems that arise later. The CRA does deal with goods not conforming to the contract within the first six months of supply and this is often referred to as the 6-month burden of proof. The CRA states that where goods are found not to have conformed to the contract within the first six months, it's presumed the goods didn't conform to the contract at the time of supply. Unless the supplier can prove otherwise.*

*Reference to not conforming to the contract relates to the goods not being of satisfactory quality and this is different to the goods simply being defective. The defect must be considered alongside the broader circumstances, including (but not restricted to) the actions or inactions of the consumer.*

*There appears to be no dispute that there were faults with the car that required repair and that these faults came to light very soon after Mr M acquired the car. So, I'm satisfied that it's fair to say that the car wasn't of satisfactory quality when it was supplied to Mr M. But this doesn't mean that Mr M should have been allowed to reject the car or that he should be compensated now along the lines he submits he should be.*

*The CRA sets out a number of potential remedies that a consumer would be entitled to where they were supplied with goods that weren't of satisfactory quality. When deciding this case my role is to consider what I believe to be fair and reasonable in all of the circumstances of the complaint. I'm not bound by the remedies set out in the CRA but they are however in my view relevant in this case when making my decision.*

*In summary, where a fault that renders the car not of satisfactory quality occurs outside the first 30 days of the agreement starting, the CRA allows a business an opportunity to repair the faults.*

*Having considered what the parties have said and submitted I'm satisfied that Moneyway was prepared to have the faults identified by S repaired at no cost to Mr M, but Mr M didn't allow it (or its agents) to do so.*

*Furthermore, knowing in January 2023 the car had faults (when the mileage stood at a little over 84,000 miles) and knowing in July 2023 the car possibly needed repairs costing in excess of £1,800 (when the mileage stood at a little over 85,500), I note that Mr M took the unilateral decision to continue using the car (until November 2023) adding several thousand more miles to the odometer. And in my view this decision, on the balance of probabilities, would have caused the original identified faults, which Moneyway was prepared to repair at no cost to Mr M, to get worse and for new faults to develop.*

*In not allowing Moneyway (or its agents) the opportunity to carry out repairs identified by S (in January 2023) as being necessary and in continuing to use the car in the full knowledge there were faults with it, I'm simply not persuaded that Moneyway, with the exception of what I say below, need do anything to compensate Mr M for what he says were, in November 2023, a number of faults with the car.*

*I can see that S identified that two new front tyres were required on the car. Now I appreciate these could have been replaced by Moneyway (or its agents). But given that S noted that the two front tyres on the car at the time of inspection were illegal I don't think Mr M did anything wrong in getting these replaced almost immediately and at his own cost. So, I think it's only fair that the cost to Mr M of these two new front tyres (£180.00) and the cost of removing a broken locking wheel nut (£36.00) be refunded to him together with interest.*

*I can see that Moneyway terminated Mr M's agreement in December 2023 due to non-payment. I've noted Mr M's reasons for ceasing payment but I'm not persuaded this was a reasonable course of action for him to take. So with this in mind, the various notices issued by Moneyway and the forbearance it showed I'm satisfied that it did nothing wrong in terminating the agreement in the way that it did or when it did.*

I then went on to outline precisely what Moneyway should do to fairly and reasonably compensate Mr M.

Mr M responded to my provisional findings to say he didn't accept them, but provided no new comments or evidence for my consideration in support of his non-acceptance.

Moneyway responded to my provisional findings to say it accepted them and that it had nothing further to add.

### **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.

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Given that Moneyway has accepted my provisional findings and Mr M has provided nothing materially new for my consideration I can confirm I see no reason to depart from those findings and I now confirm them as final.

### **My final decision**

My final decision is that Secure Trust Bank Plc trading as Moneyway must:

- refund to Mr M the sum of £216.00 he paid for two new front tyres and the removal of a broken locking wheel nut
- pay Mr M interest on the above refund at 8% a year simple from the date of payment (12 January 2023) to the date of settlement.\*

but it need do nothing further.

*\*HMRC requires Secure Trust Bank Plc trading as Moneyway to take off tax from this interest. If Mr M asks for a certificate showing how much tax has been taken off this should be provided.*

My final decision concludes this service's consideration of this complaint, which means I'll not be engaging in any further consideration or discussion of the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 13 March 2025.

Peter Cook  
**Ombudsman**