

The complaint

Miss F complains that when a conditional sale agreement for a car was cancelled because it hadn't been of satisfactory quality, Moneybarn No. 1 Limited didn't give her a fair settlement in respect of the monthly payments she'd made under the agreement.

What happened

In November 2023 Miss F entered into a 50-month conditional sale agreement for a used car. The monthly payments were set at around £334.

Miss F discovered that the car had a number of faults including an oil leak, gearbox issues and a DPF fault. It was agreed with the supplying dealer that the car wasn't of satisfactory quality at its point of supply to Miss F. In May 2024 Miss F made a complaint to Moneybarn about the car.

Moneybarn upheld her complaint and agreed that the conditional sale agreement be cancelled, and the car rejected. It said that as Miss F had driven the car for an additional 5,000 miles then it would be fair for her to receive back four of the seven monthly payments she had made together with interest. It also agreed to pay Miss F £50 for the length of time it had taken to deal with her complaint.

Miss F was unhappy at Moneybarn's offer and complained to this service. She said it would be fair for her to receive all of the payments she'd made back.

Our investigator didn't recommend that Miss F's complaint should be upheld. She said that it was fair for Miss F to pay for the usage she had of the car. Our investigator said she didn't think Moneybarn had acted unfairly in retaining the three monthly payments to cover the 5000 miles Miss F had driven in the car.

Miss F disagreed with our investigator's view. She said she hadn't used the car for an additional 5,000 miles and had actually driven less than 4,000 in it. She said she didn't think Moneybarn's settlement had been fair. Miss F also said that she had paid around £80 for the car to have a health check which she been told at the time would be paid back to her but then hadn't been.

I issued a provisional decision along the following lines.

I'd asked Moneybarn to clarify how many miles Miss F had driven the car before it had been collected when the agreement had been cancelled. It confirmed that at the time of supply the car had a mileage of 76,500 and on collection the mileage had been 80,452 meaning in the time Miss F had the car she drove 3,952 miles and not the 5,000 as stated in Moneybarn's final response letter.

I'd seen that when the car was collected from Miss F it had been inspected and a report prepared with photos which showed a number of dents found on its bodywork. The total cost of the required repairs was recorded as £771. However, the final response letter from Moneybarn said that money had been retained from the monthly payments made by Miss F

because of the mileage only. There hadn't been any mention that money was retained because there had been damage to the car which was beyond what would be considered fair wear and tear.

So, although the condition of the car may not have been as expected when Miss F had handed it back, I didn't think that it was fair I take that into account when looking at whether the settlement proposed by Moneybarn to Miss F in respect of the faulty car had been reasonable.

Here, it wasn't disputed the car hadn't been of satisfactory quality when it had been supplied to Miss F. It was also accepted that Miss F had been able to get some use out of it, but not as much as Moneybarn had originally thought when it had decided whether she should receive a reimbursement of the monthly payments made under the agreement. Miss F had actually driven around 1000 miles less than Moneybarn had taken into account when it considered the number of monthly payments, it would be fair to repay her.

I thought that as Moneybarn hadn't known the right number of miles involved and that the difference in the actual mileage was quite substantial then it would be fair for it to reimburse Miss F one further month from her payments under the agreement. However, I thought that it was fair that Moneybarn had retained two of her monthly payments as she had made use of the car even though it hadn't been of satisfactory quality. This reduction in the reimbursement of any payments made under the agreement was in line with the Consumer Rights Act 2015. Use of a car is expected to be paid for by a consumer.

Miss F had said that she should have been given the right to either have the car repaired or replaced rather than just be able to reject it. And while I agreed that under the Consumer Rights Act 2015 a consumer can ask for goods to be repaired (at no cost to themselves) or for them to be replaced as well as being able to reject them, this wouldn't necessarily mean that handing the car back and having the agreement unwound was unfair here. Miss F had received her deposit back and would be reimbursed for the period she couldn't use the car. I was satisfied on the evidence that I'd seen that the cancelling of the agreement was reasonable, and I wasn't going to ask Moneybarn to do more than to reimburse the additional month's payment to Miss F.

Miss F had also asked about the vehicle health-check costs that she said she paid. She hadn't been able to provide any invoice for that, but she had sent in a snapshot of her bank account showing a payment made in June of £72 for what was recorded as "*CW vehicle service*". I'm afraid I didn't think that was enough evidence for me to ask Moneybarn to reimburse that amount as I didn't know what this payment had been for. I would need to see an invoice setting what action had been taken and why for this amount to be reimbursed. I couldn't be satisfied on the evidence that this had been an unavoidable expense that was incurred by Miss F.

So, for the reasons set out above I intended to partially uphold Miss F's complaint. I was asking Moneybarn to reimburse Miss F an additional month's payment together with interest at the yearly rate of 8% simple from the date of payment until the date of settlement.

Moneybarn agreed with my provisional decision. Miss F has provided me with a video-link showing the health inspection for the car being carried out by the garage. I think that together with the snapshot of the payment from her bank are sufficient as proof she had this carried out to ascertain the condition of the car. I have approached Moneybarn who has confirmed it would cover the £72 costs of the vehicle inspection.

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'm therefore upholding Miss F's complaint in that, for the reasons set out above, I think Moneybarn should have reimbursed her an additional month's payment. And on reviewing the evidence concerning the health-check costs for the car, and with Moneybarn's agreement, I'm going to ask that it reimburse Miss F the £72 as well.

Putting things right

For the reasons set out above I'm upholding Miss F's complaint. I'm asking Moneybarn to do the following:

- Reimburse Miss F an additional month's payment.
- Reimburse Miss F £72 paid for the car to receive a vehicle-health check.
- To add interest at the yearly rate of 8% simple from the date of payment until the date of settlement to both of the items listed above.

My final decision

As set out above I'm upholding Miss F's complaint. I'm asking Moneybarn No. 1 Limited to do the following:

- Reimburse Miss F an additional month's payment.
- Reimburse Miss F £72 paid for the car to receive a vehicle-health check.
- To add interest at the yearly rate of 8% simple from the date of payment until the date of settlement to both of the items listed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or reject my decision before 9 April 2025.

Jocelyn Griffith
Ombudsman