

The complaint

Mr M complains about the quality of a car he acquired under a conditional sale agreement with Moneybarn No. 1 Limited (Moneybarn).

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

What happened

In May 2023, Mr M entered into a conditional sale agreement with Moneybarn to acquire a car first registered in March 2014. At the time of acquisition, the car had travelled around 113,000 miles. The cash price of the car was around £4,609. The total amount payable was approximately £9,864. There were 59 equal consecutive monthly payments each of £167.18.

Mr M said that he took possession of the car mid-June 2023, as the car required an MOT before he could take possession of it and because the supplying dealership was doing repairs to the clutch. Mr M said that in mid-September 2023 he experienced issues with the battery and the brake system warning light had illuminated. And in October 2023, he reported to the supplying dealership an issue with the clutch. On 21 November 2023 the car went into the supplying garage for the clutch repair. Approximately three months after going in for repair, the car was returned to Mr M and he said, when driving the car, he immediately noticed the brake warning system light and check injector warning error which came up on the dashboard. So, Mr M said he only drove the car for a few days and has not used it since February 2024. Mr M said the car also had further issues with the injection system, anti-pollution system, cruise control, speed limiter, fuel gauge, key fob not being registering with the car causing the steering lock to be on, and overall, the issues with the whole electrical system.

In March 2024 Moneybarn wrote to Mr M and said Mr M notified them of having issues with the car a few weeks earlier. They said Mr M made them aware of issues with the clutch and brakes. They said a clutch is designed to last anywhere between 50,000 and 100,000 miles or maybe even more, but this depends on the quality of the car, how well a driver maintains it, and their driving style. And they said that brakes naturally deteriorate over time. Moneybarn said that when Mr M acquired the car it had covered 113,000 miles and was nine years old. So, there is an expectation with second-hand cars that there will be some wear to the components and that this will form part of the normal required ongoing maintenance. As such, they concluded that the issues raised are the result of wear and tear and they did not uphold Mr M's complaint.

Mr M remained unhappy, so he referred his complaint to the Financial Ombudsman Service (Financial Ombudsman).

Our investigator said Mr M's complaint should be partially upheld. The investigator was of the opinion the issue with the clutch was successfully repaired by the supplying dealership, but as Mr M did not have use of the car between November 2023 and February 2024, it was fair and reasonable Moneybarn refund Mr M any payments he made, plus 8% interest, while the car was undergoing repairs and unavailable for use. He also thought Moneybarn should

pay £150 for distress and inconvenience caused to Mr M. But the investigator did not think it would be fair to ask Moneybarn to do anything more to resolve Mr M's complaint regarding the other issues Mr M experienced with the car because these were due to a reasonable level of wear and tear.

Mr M disagreed with the investigator. So, the complaint has been passed to me to decide.

After reviewing the case, I issued a provisional decision on 16 April 2025. In the provisional decision I said:

“What I’ve provisionally 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.

Where evidence is unclear or in dispute, I reach my findings on the balance of probabilities – which is to say, what I consider most likely to have happened based on the evidence available and the surrounding circumstances.

In considering what is fair and reasonable, I need to take into account the relevant rules, guidance, good industry practice, the law and, where appropriate, what would be considered good industry practice at the relevant time. Mr M acquired the car under a conditional sale agreement, which is a regulated consumer credit agreement. Our service can look at these sorts of agreements. Moneybarn is the supplier of goods under this type of agreement and is responsible for dealing with complaints about their quality.

I have summarised this complaint very briefly, in less detail than has been provided, and largely in my own words. No discourtesy is intended by this. If there is something I have not mentioned, I have not ignored it. I have not commented on every individual detail. But I have focussed on those that are central to me reaching, what I think is, the right outcome. This reflects the informal nature of the Financial Ombudsman as a free alternative to the courts.

The Consumer Rights Act 2015 (CRA) covers agreements such as the one Mr M 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.

In Mr M’s case the car was used, with a cash price of around £4,609. It had covered around 113,000 miles and was around nine years old when he acquired it. So, the car had travelled a reasonable distance, and it is reasonable to expect there to be some wear to it because of this use. I would have different expectations of it compared to a brand-new car. As with any car, there is an expectation there will be ongoing maintenance and upkeep costs. There are parts that will naturally wear over time, and it is reasonable to expect these to be replaced. And with second-hand cars, it is more likely parts will need to be replaced sooner or be worn faster than with a brand-new car. So, Moneybarn would not be responsible for anything that was due to normal wear and tear whilst in Mr M’s possession.

Mr M thinks that he should be entitled to reject the car.

The CRA sets out that Mr M has a short term right to reject the car within the first 30 days, if the car is of unsatisfactory quality, not fit for purpose, or not as described, and he would need to ask for the rejection within that time. Mr M would not be able to retrospectively exercise his short term right of rejection at a later date.

The CRA does say that Mr M would be entitled to still return the car after the first 30 days, if the car acquired was not of satisfactory quality, not fit for purpose, or not as described, but he would not have the right to reject the car until he has exercised his right to a repair first – this is called his final right to reject. And this would be available to him if that repair had not been successful.

First, I considered if there were faults with the car. I know that Mr M said that mid-September 2023 he experienced issues with the battery and with the brake system warning light illuminating. He replaced the battery on the car and later, in November 2023, the car went into the supplying garage for clutch repairs. Approximately three months after going in for repair, the car was returned to Mr M and he said he noticed immediately when driving that the brake warning system light and check injector warning error came up on the dashboard, so Mr M said he only drove it for a few days and then the car has been unused since February 2024. Mr M said the car has further issues with the injection system, anti-pollution system, cruise control, speed limiter, fuel gauge, key fob not being registering with the car causing the steering lock to be on, and overall, the issues with the whole electrical system, allowing Mr M said to only open one door. Based on this evidence, it is clear that the car was faulty. But just because a car was faulty does not automatically mean that it was of unsatisfactory quality when supplied. So, I have considered if the car was of unsatisfactory quality when it was supplied to Mr M.

Mr M has said there were issues with the brakes, and the overall brake system of the car. But I can see the MOT only listed brakes issues as 'monitor and repair if necessary'. It said front and rear brake discs were worn, pitted, or scored, but not seriously weakened and the car still passed the MOT. So, I considered that at the time of acquisition, the brakes, and the brake system itself, most likely, were not a safety issue. If they were, the car, most likely, would not have passed its MOT. Also, brakes are wear and tear items, and I've not seen enough evidence to be able to say that, on balance, there was a fault present or developing at the point of supply with the brakes which would render the car unsafe. So, I think most likely these needed changing due to normal wear and tear process. And taking into consideration the car's age, mileage, and price paid, I think it is reasonable to expect there to be some wear to it as a result of its use. As with all used cars, there is an expectation that there will be ongoing maintenance and upkeep costs. There are parts that will naturally wear over time, and it is reasonable to expect these to be replaced. And with second-hand cars – especially with a car of high age and mileage – it is more likely that parts will need to be replaced sooner or be worn faster than with a brand-new car. So, Moneybarn is not responsible for anything that was due to normal wear and tear. And I think it is fair and reasonable to say that, considering the circumstances of this complaint, the brakes, as well as the battery (that Mr M replaced), all fall within this category, so in this specific instance they would not render the car of unsatisfactory quality.

I also considered the issues with the clutch. I know the supplying dealership and Moneybarn covered the expense of the clutch repair, but this was as a gesture of goodwill. And I do not think they were obligated to cover this expense as I think, most likely, the car was not of unsatisfactory quality at the time of supply. I say this because I considered that the car at the time, had travelled a significant number of miles, about 117,000, and approximately 3,000 to 4,000 miles since Mr M acquired it. So, when considering the age and mileage of the car, combined with when the clutch issues were noted, I think most likely, the faults Mr M is experiencing are because of normal wear and tear, and parts coming to the end of their life cycle. As such I cannot say the fault with the clutch made the car of unsatisfactory quality.

When considering if the car was unsatisfactory quality, I also considered all the other issues mentioned by Mr M, including the ones with the electrical system of the car. When considering these I looked at the two independent inspections that were carried out.

Towards the end of August 2024, the supplying dealership commissioned an independent inspection. The engineer in this inspection concluded that as the car has been used for some ten months since its purchase, therefore the defects would not have been present or developing at that time, and as such, Mr M is responsible for the car rectification work required. They also said the car was not being well maintained so, overall, they felt the sales agents are not responsible for the repair costs. They said the car had travelled 117,000 miles and it is over 10 years old, and as such wear and deterioration levels are likely to be high due to operational use. So, they said, the future operation and reliability cannot be predicted and there is also an increased risk of further faults becoming apparent and requiring attention.

The second independent inspection was commissioned by Moneybarn. It was completed in September 2024 and was performed by a different independent company to the one above. This inspection stated that the car had many faults but some of them could not be fully tested, however, taking into account all the information and the fact the car was acquired in May 2023 and the car had travelled 3,000 miles, the inspector felt the selling agent was not responsible for the cost of repairs required.

Considering the conclusions of the above inspections, combined with the age and mileage of the car, I think it is most likely the faults Mr M is experiencing are because of normal wear and tear, and parts coming to the end of their life cycles. And based on the available evidence, I do not have enough to say that, most likely, the car was of unsatisfactory quality. So, Mr M would not be entitled to reject the car, and I do not think Moneybarn should be responsible for the cost of the repairs.

Mr M has told us a lot about his personal circumstances and while I sympathise with him for the difficulties that he is experiencing, based on all the information available in this case, I do not think there is sufficient evidence to say that most likely Moneybarn should be responsible for the faults with the car. As such, I do not think it would be fair and reasonable to ask Moneybarn to take any further action regarding this complaint.

In this decision I have only considered the complaint about the quality of the car Mr M acquired, but I know Mr M has not been making his contractual payments towards his finance agreement, so, I remind Moneybarn of their obligation to treat Mr M fairly and with forbearance when dealing with the arrears on his account.

My provisional decision

For the reasons given above I intend to say that I do not uphold this complaint.”

I asked both parties to provide me with any additional comments or information they would like me to consider by 30 April 2025.

Moneybarn accepted my provisional decision. They also said that as a gesture of goodwill, due to Mr M's personal circumstances, they proposed that if Mr M returns the car in a suitable condition, they will charge him for the fair usage of the car during the time he had possession of it, along with any repair fees which may be applicable dependent on the condition of the car upon its return. Moneybarn said any payments made over the fair usage charge would be refunded with 8% simple interest applied, minus tax. And, they said, that if the payment made towards the fair usage of the car and fees applied have not been met, a

sustainable and affordable plan will be discussed with Mr M. They also said they would not be liable for storage charges incurred by Mr M, nor any repair costs/alternative costs which Mr M has incurred.

Mr M rejected Moneybarn's offer, and he disagreed with my provisional decision. Mr M also provided further comments which I will address in turn.

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 response to my provisional decision, Mr M said he only took possession of the car mid-June 2023, as the supply dealership was replacing the clutch. Mr M also feels that I have not investigated and commented on certain information from the supplying dealership/broker. He said there is a lot of information missing, such as for example the recovery agents stating that the car had damage for a long time. He feels that I should have listened to certain calls he had with the supply dealership/broker and that some of that information would completely change the outcome of my decision.

Mr M has also stressed that before he even got the car, the supplying dealership/broker had to replace the clutch, which broke down eight weeks later. Mr M feels that he should not be liable for certain payments and some of the payments should have been on hold until he had the car returned in a satisfactory state. And, he said, this has not happened on 21 November 2023. Mr M said the clutch failed on 5 October 2023 and it took them until 21 November 2023 to honour their warranty. He said that this was part of the information I have not seen along with the evidence that the electrics, brakes, fuel gauge, speed limiter, cruise control, stop start system, and key fob issues were not present on 21 November 2023 when the dealership collected the car, but where there on 12 February 2024 when it was returned to him.

Mr M has also said that he is not accepting Moneybarn's offer, which was made after my provisional decision. He said he cannot return the car because it is broken since he got it back and the engine will not start. Mr M said he had only driven the car for roughly 15 weeks since he originally received it in June 2023. The dealership had the car for four months and gave it back to him with numerous new issues. He feels that, had Moneybarn got the dealership to take the car back and repair it, then the car would not have been left in the area it broke down in and thus subject to being vandalised. Had it not broken down, it would have been parked in a secure car park. In addition, Mr M has provided information on the CRA and said he has received advice that Moneybarn have not upheld their side of the contract. In summary, Mr M feels that the missing information would clearly show that the car had issues before he even took delivery of it.

In addressing Mr M's response, first I would just like to restate that I have summarised this complaint very briefly, in less detail than has been provided, and largely in my own words. No discourtesy is intended by this. If there is something I have not mentioned, I have not ignored it. I have not commented on every individual detail. But I have focussed on those that are central to me reaching, what I think is, the right outcome. This reflects the informal nature of the Financial Ombudsman as a free alternative to the courts.

Second, I understand that Mr M feels that some of the information from the supply dealership/broker, which he provided a link to, would change the outcome of this case. But we have asked Mr M to provide this information in a different format on several occasions. We have asked for a format that would be accessible to us and, unfortunately, we have not received this. However, regardless of this, I would like to assure Mr M that I have taken his

testimony into consideration. So, I am not doubting the information and/or the timeline that he has provided. But even taking into consideration everything he has told us my decision remains the same, as in my provisional decision. I will explain this below.

Like I stated in my provisional decision, I still think it was clear that the car was faulty. But just because the car was faulty does not mean that automatically it was of unsatisfactory quality when supplied.

The MOT, from around the time of supply listed brake issues only as 'monitor and repair if necessary' with the car still passing that MOT. As such the brakes, and the brake system itself, most likely, were not a safety issue. If they were, the car, most likely, would not have passed its MOT. Also, the brakes are wear and tear items, and I've not seen enough evidence to be able to say that, on balance, there was a fault present or developing at the point of supply with the brakes which would render the car unsafe. As mentioned in my provisional decision, most likely, they needed changing due to the normal wear and tear process. And, taking into consideration the car's age, mileage, and the price paid, I think it is reasonable to expect there to be some wear to it as a result of its use. So, they would not render the car of unsatisfactory quality.

I also considered the issues with the clutch. Even if the same aspects of the clutch were repaired before Mr M got delivery of the car in June 2023, I still do not think that it would be fair and reasonable to say that because the clutch failed later in October 2023 that Mr M should be able to reject the car. I say this for a few reasons. First, I've taken into consideration that the repair costs of the clutch were not borne by Mr M on either occasion. Second, I do not think Moneybarn, or the supplying dealership/broker, were obligated to cover this expense. As mentioned in my provisional decision, when the car failed in October 2023, the car had travelled a significant number of miles, about 117,000, of which approximately 3,000 to 4,000 miles were covered since Mr M acquired the car. So, when considering the age and mileage of the car, combined with when the clutch issues were noted, I think most likely, the faults Mr M is experiencing are because of normal wear and tear, and parts coming to the end of their life cycle. As such I cannot say the fault with the clutch made the car of unsatisfactory quality.

I should also clarify that even if the two clutch repairs would have rendered the car of unsatisfactory quality - which I do not believe is the case - I still do not think it would have been fair and reasonable for Mr M to be able to reject the car. This is because a repair has been completed, and there is no evidence that the second repair has now failed.

When considering the issues with the electrical system of the car, I have taken into consideration what Mr M has told us, but I also needed to consider the two independent inspections. One concluded that, as the car has been used for some ten months since its purchase, the defects would not have been present or developing at that time, and as such, Mr M is responsible for the car rectification work required. They also said the car was not being well maintained so, overall, they felt the sales agents are not responsible for the repair costs. They said the car had travelled 117,000 miles and it is over 10 years old, and as such wear and deterioration levels are likely to be high due to operational use.

The second independent inspection stated that the car had many faults but some of them could not be fully tested, however, taking into account all the information and the fact the car was acquired in May 2023 and that it had travelled 3,000 miles, the inspector felt the selling agent was not responsible for the cost of repairs required.

Considering what Mr M has said along the conclusions of the two inspections, combined with the age and mileage of the car, I think, most likely, the faults Mr M is experiencing are

because of normal wear and tear and parts coming to the end of their life cycles. So, I still feel that there is not enough to say that, most likely, the car was of unsatisfactory quality.

Once again, I really do sympathise with Mr M for the difficulties that he is experiencing, and the difficult position he finds himself in, but based on all the information available in this case, I do not think there is sufficient evidence to say that, most likely, Moneybarn should be responsible for the faults with the car. As such, I still do not think it would be fair and reasonable to ask Moneybarn to take any further action regarding this complaint.

My final decision

For the reasons given above, and in my provisional decision, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 14 July 2025.

Mike Kozbial
Ombudsman