

## **complaint**

Mr N and Mrs D complain that a car they bought using a conditional sale agreement through Moneybarn Plc was not of satisfactory quality and was not fit for purpose.

## **background**

Mr N and Mrs D bought a used car from a main dealership. They paid a deposit for the car and took out a conditional sale agreement with Moneybarn for the remaining balance of the purchase price.

However, a short time after collecting the car, they experienced some problems with the electrics and noticed a fault with the paintwork. They also had an issue with the starting and running of the car.

The car was returned to the main dealership and the reported faults were looked at. The car's paintwork was corrected and an engineer told Mr N and Mrs D that it seemed as though the car had had some repairs to previous accident damage which had not been completed as it should have been. The electrical fault was also corrected but the garage could find no problem with the car starting or running. The garage told Mr N and Mrs D that the car needed to be started in a specific way, and it could cause the car not to start properly if this procedure was not followed.

But Mr N and Mrs D continued to have problems running the car and they complained to Moneybarn. They asked to reject the car as they said it was not fit for purpose and they had experienced problems with it from the beginning. They said that they were not told that it had previously been in an accident or that there was a specific method to start the car.

Moneybarn said that the supplying dealership had carried out extensive testing of the car and found no problems with it starting, as long as the set procedure to start it was followed. It did not accept that Mr N and Mrs D not liking this procedure was grounds to reject the car.

Moneybarn also said that the car's history did not show that it had previously been written-off, and it would be difficult to establish if the car had been involved in a minor accident and then repaired. It said the paint defect had been corrected and it did not believe this was likely to affect the future value of the car.

Mr N and Mrs D stopped paying the direct debits for the payments to their conditional sale agreement and Moneybarn took possession of the car. The car was later sold at auction and the proceeds reduced the outstanding balance under Mr N and Mrs D's agreement. However, a balance remained and Moneybarn wrote to Mr N and Mrs D to ask them to repay this debt.

Our adjudicator did not recommend that the complaint should be upheld. He said that under Mr N and Mrs D's conditional sale agreement the goods supplied should be of satisfactory quality. He said that if the goods were not considered to be satisfactory quality then the provider should have a reasonable opportunity to correct any faults.

The adjudicator said he was satisfied that the faults with the car Mr N and Mrs D had described had been corrected by the supplying dealership. He also said one of the potential risks of buying a used car was that it may have previously been involved in an accident, but this may not be recorded on the car's history if the damage was minor and was repaired.

Mr N and Mrs D did not accept the adjudicator's findings. They said that the car continued to have faults and it was only verbally confirmed that it had been repaired. They said that the car was not safe to drive and they were entitled to reject it and receive a refund of the money they had paid towards it.

### **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

The Supply of Goods (Implied Terms) Act 1973 has an implied term that the goods should be of satisfactory quality when they are sold. They would be considered of satisfactory quality if a reasonable person would consider their standard to be satisfactory. This should take into account the individual relevant specifics of the goods.

This was further clarified by the Sale and Supply of Goods Act 1994, so 'satisfactory quality' includes: being fit for purpose; appearance and finish; free from minor defects; safe and durable.

Mr N and Mrs D reported a number of issues with their car shortly after they collected it. These were mainly with the car not starting as it should; defects with the paintwork; and a fault with the electrics to the car's radio.

The supplying dealership inspected the car but was unable to replicate the fault Mr N and Mrs D had reported with the car starting or cutting out. Moneybarn's records indicate that the dealership explained that the car had a specific procedure to follow when starting it and the dealership offered to demonstrate this to Mr N and Mrs D both when the car was taken in for inspection, and when it was returned to them after the repairs had been carried out.

I am satisfied from the submissions that the paintwork and electrical problems were resolved by the dealership. I do appreciate Mr N and Mrs D's concern that they had not been told that the car had been damaged in an accident and that this could have affected its future value. However, the car's history showed no record that it had been previously written off, and I would not expect a prior accident to be recorded when the damage was relatively minor and had been repaired. There is no means of establishing with any certainty whether this was what had caused the paintwork defect on the car. But the defect was corrected by the dealership so it is no longer a fault.

In all the circumstances, I am unable to conclude that Moneybarn should be required to refund the payments Mr N and Mrs D made towards their conditional sale agreement. The cosmetic and electrical problems were looked at and corrected, and the inspection showed no fault with the car starting and/or cutting out.

A balance remains under Mr N and Mrs D's conditional sale agreement after the proceeds from the sale of the car were deducted. I leave it to Mr N and Mrs D to agree a mutually acceptable repayment plan with Moneybarn for the remaining balance.

**my final decision**

My decision is that I do not uphold this complaint and I make no award against Moneybarn Plc.

Cathy Bovan  
**ombudsman**