

complaint

Mrs R complains that a car that was supplied to her under a conditional sale agreement with Moneybarn No. 1 Limited wasn't of satisfactory quality.

background

A used car was supplied to Mrs R under a conditional sale agreement with Moneybarn that she electronically signed in November 2018. The car was about five years old and had been driven for more than 89,000 miles. She complained to Moneybarn in February 2019 about some issues with the car. The dealer arranged for the car to be inspected by an independent expert who concluded that the car would've been of satisfactory quality when it was supplied to Mrs R.

But Mrs R's credit intermediary didn't agree with the inspection report and arranged for the car to be inspected by a second independent expert. That expert said that the issues would've ongoing since the point of sale. The credit intermediary arranged for the car to be repaired and reimbursed Mrs R for the cost of a hire car. Moneybarn credited £747.16 (two monthly payments) to Mrs R because of her interrupted use of the car and it paid her £200 for the distress and inconvenience that she'd been caused. But Mrs R wasn't satisfied with its response so complained to this service.

The adjudicator recommended that this complaint should be upheld. He said that the car started showing faults within a month of Mrs R taking possession of it and she complained to the dealer straightaway. He said that the car had been in for repairs at least twice and Mrs R had had the car for less than two months which had caused her major issues with being unable to take her six children to four different schools, getting to and from work and paying her bills. He said that the issues identified in the second inspection report had been repaired and he recommended that Moneybarn should return another monthly payment to Mrs R and pay her a further £400 for the extreme stress and inconvenience caused to her and her family.

Moneybarn accepted the adjudicator's recommendations but Mrs R says that the car has more faults. Moneybarn then arranged another inspection of the car by the second independent expert.

my findings

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

Moneybarn, as the supplier of the car, was responsible for ensuring that it was of satisfactory quality. Whether or not it was will depend on a number of factors, including the age, and mileage of the car and the price that was paid for it. The car that was supplied to Mrs R was about five years old, had been driven for more than 89,000 miles and had a price of £11,080. Satisfactory quality also covers durability which means that the components within the car must be durable and last a reasonable amount of time – but exactly how long that time is will depend on a number of factors.

There's no dispute that there were some issues with the car. It was inspected by an independent expert in March 2019 when its mileage was recorded as being 93,765 miles. The report concluded:

"The vehicle's overall physical condition and the fact that the vehicle passed an MOT with a similar mileage as at the point of purchase and just prior to the date of sale, leads us to the conclusion that the vehicle was road legal and fit for its intended purpose at the point of sale and met all the criteria laid out in section 75 of the Road Traffic Act at that point.

In our opinion the current breaching of the cylinder head gasket has developed after the point of sale as the result of general in-service deterioration, which is consistent with the vehicle's age and reported mileage and therefore this would not render vehicle being unfit for its intended purpose at the point of sale and not being of satisfactory quality at the point of purchase.

This opinion is further reaffirmed by the fact that the vehicle could not have been driven for the 4000 miles or thereby since the point of sale in its current condition, i.e. lack of compression one cylinder. This in conjunction with a non-starting of the vehicle could not have been present at the point of purchase, as the vehicle could not have been driven in this condition for any length of time or mileage".

The car was inspected by a second independent expert the following month when its mileage was recorded as being 95,269 miles. The report said that there was a severe engine knock and a coolant leak and recommended that the rear brakes were examined for pad wear. It concluded:

"We would conclude that the vehicle should be presented to a suitably authorised repairer for investigation and rectification of the above reported faults. Whilst we note the elapsed time and mileage covered since sale we understand from the owner that these faults have been ongoing from sale and that documentary evidence can be provided to support this contention, on that basis the repairing dealer should be involved in the repairs necessary".

The issues identified in that report were repaired and Moneybarn credited two monthly payments (a total of £747.16) to Mrs R's account and paid her £200 to compensate her for the distress and inconvenience that she'd been caused. I understand that the credit intermediary and Moneybarn have reimbursed Mrs R for the car hire costs that she's incurred.

Mrs R then complained about further issues with the car and Moneybarn arranged another inspection of the car by the second independent expert in December 2019. The car's mileage was recorded as being 100,070 and the report concluded:

"In our opinion based on the visible evidence we would conclude that the vehicle did display no undue engine noises. However, the vehicle could not be road tested due to the condition of the front tyres, the front screen and the incorrect size of the nearside rear road wheel.

We can confirm a knocking from the offside front inner steering rack end inner ball joint. We would consider that these faults on the balance of probability would not have been developing at finance inception".

That inspection took place more than a year after the car was supplied to Mrs R and in that time she's been able to drive more than 10,000 miles in it. The independent expert says that the noise from the steering rack wouldn't have been present when the car was supplied to Mrs R and neither of the earlier reports has referred to an issue with the steering rack. So I consider it to be more likely than not that that issue has developed since the car was

supplied to Mrs R as a result of the use that she's had from the car. I sympathise with Mrs R for the difficulties that she's been caused by these problems with the car, but I find that it wouldn't be fair or reasonable for me to require Moneybarn to pay for the issue with the steering rack to be repaired – or to take any other action concerning that issue.

Moneybarn said that although it couldn't confirm when an alloy wheel of the wrong size was fitted it would be asking Mrs R to get a reasonable quote for a second-hand wheel and would be looking towards funding that if it's a reasonable amount. I consider that to be a fair and reasonable response in these circumstances.

Moneybarn has accepted the adjudicator's recommendation that it refund a further monthly payment to Mrs R and that it should pay her an additional £400 to compensate her for the distress and inconvenience that she's been caused by these events. And the issues identified in the second independent report have been repaired. I consider that to be fair and reasonable. I'm not persuaded that it would be fair or reasonable for me to require Moneybarn to pay Mrs R a higher amount of compensation than it has agreed to pay to her or to take any other action in response to her complaint (other than paying for the wheel to be replaced).

my final decision

For these reasons, my decision is that I uphold Mrs R's complaint in part. And I order Moneybarn No. 1 Limited to:

1. Reimburse Mrs R for the cost of replacing the alloy wheel with a second-hand replacement – subject to a quote for the cost being agreed with it in advance.
2. Refund to Mrs R a further monthly payment that she's made under the agreement.
3. Pay an additional £400 to Mrs R to compensate her for the distress and inconvenience that she's been caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 10 February 2020.

Jarrold Hastings
ombudsman