

## **complaint**

Mr J complains about issues he's experienced with a car supplied with finance from Moneybarn No 1 Limited.

## **background**

In April 2017 Mr J was supplied with a second hand car and entered into a conditional sale agreement with Moneybarn.

Within the first two weeks Mr J experienced issues with the transmission going into limp mode. Mr J returned the car to the garage that changed the gearbox oil and filter. Mr J says that this resolved the issue for a while but that it returned intermittently. By August 2017 Mr J began to experience further issues including a leak which caused the rear drivers side carpet to become wet and a banging noise coming from the engine.

When Mr J complained to Moneybarn it contacted the supplying dealer who arranged for an independent inspection.

The inspection was carried out in September 2017 and concluded that the issues with the engine were as a result of the car being driven with insufficient oil.

In its final response Moneybarn said there was no evidence that the car had a fault at the point of supply. It said the faults were as a result of poor maintenance.

Mr J wasn't happy with Moneybarn's response so he complained to this service.

Our investigator didn't uphold the complaint. She said there was no evidence that the gearbox issue or the engine issue were inherent faults at the point of supply.

Mr J didn't agree. He said the inspection report wasn't proof that there was insufficient oil. He also said that if there had been insufficient oil the warning light on the dashboard would have been illuminated. Mr J disputed that he had covered approximately 8000 miles and said he had only covered approximately 5000 miles.

## **my findings**

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

Because Moneybarn has supplied the car under a hire purchase agreement there's an implied term that the car has to be of satisfactory quality. Cars are of satisfactory quality if they are of a standard that a reasonable person would expect taking into account all of the relevant circumstances such as (amongst other things) the age and mileage of the car and the price paid. I would expect a second hand car to have a degree of wear and tear. So in order to uphold the complaint I would need to be satisfied that the car was not of satisfactory quality at the point of supply due to an inherent defect.

Mr J and Moneybarn disagree about whether the car had a fault at the point of supply. In order to reach a decision I need to look at the available evidence and determine, on the balance of probability, whether the car was of satisfactory quality at the point of supply.

Mr J first experienced issues with the transmission going into limp mode within 2 weeks of the point of supply. He returned the car to the garage that changed the gearbox oil and the filter. This resolved the problem temporarily but it returned intermittently.

There's no evidence to show what investigations were undertaken by the garage that changed the gearbox oil and filter. And there's nothing to suggest what might have caused the problem. The independent investigation carried out in September 2017 doesn't mention the transmission issue at all. It looks as if Mr J has been able to drive the car despite the transmission issue, because he's covered several thousand miles. On the available evidence there isn't sufficient evidence for me to conclude that the transmission issue was a fault which was present or developing at the point of supply.

The engine noise issue first arose in August 2017. The independent inspection identified the noise and suggested that it might be caused by faulty hydraulic lifters or a worn camshaft. The independent inspection also said that the car had insufficient oil in the sump which had the potential to cause damage to the engine and the gearbox. The inspection said that the fact that the car had covered several thousand miles since the point of supply pointed towards the issues being caused as a result of wear and tear rather than a fault present at the point of supply.

I appreciate that Mr J feels that the warning light would have been illuminated if the oil was low. Whilst I agree that the inspection report didn't note any warning lights, it does clearly say that the oil level was found to be below the minimum level. I've got no reason to doubt what the inspection report says because it was carried out by an independent company.

Without a more detailed inspection of the car which might involve stripping down the engine, it's not possible to say exactly what the fault is or what has caused it. The independent inspection report has concluded that the issue is most likely to have been caused by driving the car with insufficient oil.

If there was an inherent fault with the engine, I would have expected the fault to have presented itself sooner than August taking into account the mileage that the car had covered. I appreciate that Mr J disputes that he covered approximately 8000 miles but even 5000 miles is a considerable amount and with the engine being a major moving component of the car I would have expected a point of supply fault with the engine to be apparent within the first few weeks.

I've taken into account the fact that this is a second hand car which had covered approximately 80,000 miles at the point of supply. I would expect to see a high degree of wear and tear on a car of this age and mileage.

Based on the available evidence I'm unable to say that there was a point of supply fault. It seems more likely that the engine issue is due to wear and tear, or that it has been caused by driving the car with insufficient oil.

For the reasons I've given I can't conclude that the car wasn't of satisfactory quality at the point of sale and I won't be asking Moneybarn to do anything.

### **my final decision**

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 4 March 2018.

Emma Davy  
**ombudsman**