

## **complaint**

Mr H complains about the quality of car supplied to him under a conditional sale agreement with Moneybarn No. 1 Limited.

## **background**

I already set out the background to this complaint in my earlier provisional decision. But to help with ease of reading, I set out the background again here.

In July 2018 Mr H entered into a conditional sale agreement with Moneybarn for a used car. Around mid August 2018 Mr H told us, he started to notice smoke coming from the engine. Alarmed, Mr H contacted Moneybarn immediately.

Mr H asked Moneybarn to pay to repair the car. However that did not happen. Instead Moneybarn asked an expert to look at the car. Based on the results of the expert's report, Moneybarn refused to take further action.

Mr H suggested this was unfair, he believed it was responsible for sorting out whatever might be wrong with the car. But because he needed to use the car and it was unsafe to drive, he paid for the repairs himself.

Moneybarn's stance was it wasn't responsible for what had gone wrong with the car. As I have already mentioned, it relied on the expert's report. This said the smoke was most likely caused by a failed turbo charger. The report also said the turbo charger had probably stopped working due to wear and tear. Moneybarn isn't responsible for faults caused by wear and tear. For these reasons it declined to take the matter any further.

That said, while the car was out of action, as a gesture of goodwill, Moneybarn paid for Mr H's courtesy car, the total cost of which was £980.85. Further, as another gesture of goodwill it offered to pay for 50% of the bill for the repairs that Mr H had paid for. However it only did this because we had initially said that we thought the car was not of satisfactory quality when supplied. And we had asked it to pay for the whole bill.

In any event, Mr H refused Moneybarn's offer and asked for the full amount.

As I already mentioned, I looked at Mr H's complaint in a provisional decision. In summary, I said that we had the power to look at this complaint as the conditional sale agreement is a regulated credit agreement.

I also said Moneybarn is the supplier of the car under the agreement, so it is responsible for the quality of the car. In particular, it is obliged under relevant law to supply a car that is of satisfactory quality.

To be considered "satisfactory", the goods would need to meet the standard that a reasonable person would consider satisfactory – taking into account any description of the goods, the price and all the other relevant circumstances. So, it seems likely that in a case involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage at the time of sale and the vehicle's history.

The quality of the goods includes their general state and condition and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and

durability can be aspects of the quality of goods.

Moneybarn supplied Mr H with a car that had a cash price of £5,975, it was around six years old and had travelled about 89,000 miles when it was supplied. Mr H was then able to drive several thousands miles on top of this. Further I think it is significant that the price of the car was lower than it would have been if it had been supplied new.

When I took all of this into account I thought it was fair to say that a reasonable person would expect that parts of the car might have already experienced a fair degree of wear and tear. And I also think a reasonable person would expect that there would be a greater risk this car might need repair and/or maintenance sooner than a car which wasn't as road-worn when it was supplied.

The parties agreed that the problem was most likely caused by the turbo charger. I thought that it was reasonable to expect that a working part like this would wear out over time. In the circumstances I thought that was what had most likely happened here. That is that on balance, the problem with the car was most likely due to wear and tear. This is not something that the law says that Moneybarn is responsible for.

I realised that the expert had made a mistake about the exact number of miles that Mr H had driven in the car. I thought this was unfortunate but irrelevant. Because the significant thing here was that the car had driven well over 90,000 when the problem started. It was not unreasonable that a car of this age and this mileage had issues relating to wear and tear.

I also thought it was fair to mention that Mr H had already had the benefit of Moneybarn paying for his courtesy car. This wasn't something he was entitled to, this is because this expense did not come about because Moneybarn supplied a car that was not of satisfactory quality.

I invited the parties to respond to my provisional decision should they wish to do that.

Mr H responded to say he had nothing further to add. Moneybarn also responded to let us know it had received our decision. However, it did not send us anything more than that.

### **my findings**

I thank both Mr H and Moneybarn for their responses. I've re-considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Neither Mr H nor Moneybarn have chosen to send me any new information or to comment on the substance of what I said in my provisional decision. On that basis, I think I've no reason to change the conclusions I reached in my provisional decision.

It follows for the reasons I set out in my provisional decision and that I have summarised again above, I find, on balance that the car that Moneybarn supplied to Mr H was of satisfactory quality. And that the problems he has experienced with the car are most likely due to wear and tear. It follows that I have no proper basis to ask Moneybarn to take any further action.

**my final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 20 June 2020.

Joyce Gordon  
**ombudsman**