

complaint

Mr S is unhappy that he was charged to reject a car that'd been supplied to him under a conditional sale agreement with Moneybarn No. 1 Limited.

background

On 9 January 2019, Mr S was supplied with a used car through a conditional sale agreement with Moneybarn. The agreement was for £4,695 over 60 months, with monthly repayments of £155.67. The car was about five and a half years old and had done 73,000 miles.

The car had been sourced by a credit broker I'll call 'C', from an underlying car dealership I'll call 'D'. C was listed as the supplying dealership on the paperwork and Mr S paid them a £48 admin fee as part of the process.

Mr S was unhappy that there were mechanical and other issues with the car and raised these with Moneybarn on 14 January 2019. On 21 January 2019 he asked D if he could reject the car and paid them £500 to enable him to do this. And, on 30 January 2019, C and Moneybarn told Mr S he could reject the car and that the agreement would be unwound. And C said they'd refund Mr S the £48 he'd paid.

Mr S has complained that, because he returned the car within the 14-day cooling off period, he shouldn't have to pay anything. So he asked Moneybarn to refund him the £500 he'd paid to D, and to reimburse him for the £40 petrol he'd put in the car and used getting to and from D's premises. Moneybarn didn't agree, so Mr S brought his complaint to us for investigation.

Our adjudicator said she hadn't considered the rejection of the car itself, as Mr S was allowed to reject it without any issues. And because this was arranged so quickly, she didn't think Mr S needed to be compensated for any minor inconvenience he'd been caused.

She also said that, because Mr S hadn't made any payments to the agreement, Moneybarn didn't have anything they needed to refund. Moneybarn had removed the agreement from Mr S's credit file, which the adjudicator said was something she'd have expected them to do.

But the adjudicator didn't think Moneybarn were responsible for the £500 Mr S paid to D. He paid this without referring to C or Moneybarn first and, because it was paid after the car had been supplied to Mr S, it didn't form part of the conditional sale transaction. So Moneybarn couldn't be held responsible for this.

The adjudicator also explained that we can only consider complaints about regulated businesses, and D aren't regulated. And she didn't think C were responsible for refunding the £500 because the payment didn't relate to the credit broking services they'd provided.

The adjudicator also said that the 14-day cooling off period related to the agreement with Moneybarn, and not the car itself. So it meant that Moneybarn wouldn't charge anything – which they didn't – and not that Mr S should be refunded for anything he'd paid someone else when handing back the car.

While the adjudicator acknowledged the financial impact paying the £500 had on Mr S, for the reasons she'd given she didn't think Moneybarn needed to do anything more.

Mr S didn't agree with the adjudicator. He's said that he'd spoken to C on two occasions and they'd told him, on a recorded call, that he could "*hand the car back with no problems and no fee what so ever.*" And he's asked for an ombudsman to make a final decision.

my findings

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

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mr S was supplied with a car under a conditional sale agreement. This is a regulated consumer credit agreement which means we're able to look into complaints about it.

But, after reviewing all of the evidence, I'm in agreement that the £500 Mr S paid didn't form part of the conditional sale agreement. Mr S had the right to reject the car, under certain circumstances. And both C and Moneybarn agreed he was able to reject the car, and to unwind the agreement. This was all sorted within a few weeks of Mr S first raising the issues with Moneybarn. I don't think this was an unreasonable timescale.

But, while Moneybarn were considering Mr S's complaint, Mr S paid D £500 so he could reject the car. I don't believe this payment should've been made.

I've seen nothing to show me that Moneybarn charged this £500, asked D to charge it, or that D paid the £500 to Moneybarn. The £500 payment was a separate arrangement between Mr S and D. It wasn't arranged by either Moneybarn or C, and Mr S didn't contact either of them to discuss whether or not to make the payment at the time.

Because of the above, and because the payment was made to D outside of the conditional sale agreement after the car was supplied to Mr S, I'm not holding Moneybarn responsible for refunding this to Mr S. This is something Mr S will need to raise directly with D. But D aren't regulated by the Financial Conduct Authority so, if they don't agree to refund the £500 to Mr S, unfortunately the Financial Ombudsman Service can't tell them they have to – they don't fall within our jurisdiction.

Mr S also believes the cooling off period in his finance agreement means he shouldn't have to pay anything. But this only relates to the finance agreement. And Moneybarn haven't charged him any payments, interest, fees or charges – which is what I'd expect. It doesn't extend to the £500 Mr S paid D outside of the agreement or cover the petrol he put in the car for the brief period of time it was in his possession.

Mr S has also raised the issue of what he was told by C about what would happen if he rejected the car. C have provided the two calls they had with Mr S, on the dates he's said the calls took place. I've listened to these calls. In the first call, Mr S discussed the possibility of financing a car. C explained that, if Mr S wanted to settle the agreement early, then there wouldn't be any fees. And I've noted that, when the agreement with Moneybarn was unwound, Mr S wasn't charged any fees.

In the second call, Mr S told C he'd found a car he'd like to finance. During the discussion he raised concerns about buying a car online and finding out there were problems with it after purchase. C said there would be an approved warranty with the car which would be included in the price. There was no discussion on this call about what would happen if Mr S needed to reject the car.

But C did tell him that, if there were any issues with the car, to let them know. And they told him there was a 14-day cooling off period. Unfortunately there were issues with the car and Mr S was allowed to reject the car. And, in unwinding the finance agreement, Mr S wasn't charged anything by Moneybarn.

There was nothing in either of these calls where Mr S was told that he'd have to pay anything to allow him to reject the car, or that any payments he agreed to pay to any third party when rejecting the car would be refunded to him. I've also seen that Mr S was provided with copies of these calls, and he hasn't raised any further objections about what he was or wasn't told at the time.

Because of all of this, and while I appreciate this will come as a disappointment to Mr S, I won't be telling Moneybarn they need to do anything more.

my final decision

For the reasons explained above I don't uphold Mr S's complaint against Moneybarn No. 1 Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 5 February 2021.

Andrew Burford
ombudsman