

complaint

Mr and Mrs B complain that the vehicle they acquired through a conditional sale agreement financed by Moneybarn No.1 Limited was not of satisfactory quality. They want to reject the vehicle or for Moneybarn to pay for repairs. For ease of reading I'll mostly refer to Mrs B.

background

Mrs B tells us she and Mr B acquired the vehicle in January 2018 from a dealer I'll refer to as "V". Since then she says there have been numerous faults including a new clutch being required and gear box failures. And more recently she said an MOT inspection had revealed problems with the diesel particulate filter (DPF). She wants Moneybarn to pay for all the necessary repairs.

Moneybarn told us that after Mrs B had raised several issues about the vehicle - including thick white smoke and a banging sound - it had arranged for the vehicle to be inspected by a company I'll call "S". It said this inspection had concluded that any existing faults were due to wear and tear and that the vehicle had been of satisfactory quality at the point of supply. But it said it had arranged for a gearbox leak to be repaired as a gesture of goodwill. When Mrs B subsequently complained - about brake pads and discs needing replacing and callipers seizing - it had declined to assist as there had been no mention of these issues in the report by S.

Our adjudicator did not recommend the complaint should be upheld. He said that V had replaced the faulty clutch in February. And in April 2018, Moneybarn had waived a monthly payment and a late payment charge following a complaint by Mrs B about the quality of the vehicle. In June, he saw that an independent inspection of the vehicle had been carried out by S. This report had not found any problems with the engine and no smoke from the exhaust. He said the report had concluded there were no faults which would've been present at the point of supply and any other issues were wear and tear related. He acknowledged Moneybarn had arranged for an oil leak - which had been identified as likely to have been related to the gearbox being removed - to be repaired and had paid an additional £100 for the inconvenience suffered. He thought this was fair and reasonable.

Mrs B didn't agree with this outcome and wanted an ombudsman to make the 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.

I'm sorry Mrs B has experienced several problems with this vehicle and I can understand why she feels upset and frustrated at what's happened.

Under present legislation, as the supplier of finance and the vehicle under a conditional sale agreement, Moneybarn is responsible for the vehicle being of satisfactory quality at the time of supply. And whilst I don't apply the law - directly - I do take it into account.

In trying to resolve complaints, we listen to what the parties tell us, and we look to documentary and other evidence to help us reach a decision. This is in combination with our fair and reasonable remit. And where evidence is unclear or contradictory - as some of it is here - I have to make my decision on the balance of probabilities. That is to say I decide what is the most likely explanation to account for what's happened.

It's not in dispute that the vehicle required a clutch replacement shortly after supply. But as this was carried out by the dealer I don't think Moneybarn need do anything further about this. And I can see it later waived a monthly payment and a late payment fee to settle a complaint which included damage which had apparently occurred during the earlier repair. Again I think this was a fair resolution.

When Mrs B reported various other issues Moneybarn arranged for the vehicle to be inspected by S - and I've read the report which was prepared following this.

The vehicle was around eight years old when acquired by Mrs B - and had reportedly covered 75,000 miles. It's more likely with older vehicles that things will start to go wrong - and so the same degree of quality and reliability can't be expected as might be the case with a newer vehicle.

The report by S was conducted after the earlier repairs to the clutch and when the vehicle had covered more than 5,000 extra miles after being supplied to Mrs B. The report identified faults - in particular an oil leak - which given the recent clutch replacement was felt likely to have been caused by the removal of the gearbox. There's some suggestion that a subsequent inspection by the vehicle warrantors found the oil leak was not related to the clutch replacement. But I don't think I need go into more detail about this as Moneybarn arranged for this issue to be repaired at no cost to Mrs B.

S's report did record other faults with the vehicle and made various recommendations including the need for the DPF to be cleaned and regenerated as part of routine maintenance. But it concluded the vehicle had been of satisfactory quality when supplied and the current issues were wear and tear related.

I'm aware Mrs B has also reported that there have been further problems, with the brakes and discs needing replacing and callipers seizing. And more recently she says she has been told by a garage which was conducting an MOT inspection that the DPF will in future need replacing due to a leak.

Whilst I appreciate this is disappointing, I don't think it would be fair and reasonable to say that Moneybarn should be responsible for these matters.

Brake pads and discs are usually considered a normal serviceable item - that is they routinely require replacing from time to time. And the report by S made no mention of any fault being observed during the road test in relation to these items. It's also unlikely the vehicle could have covered over 5,000 miles since supply with serious brake faults.

S also recommended the DPF be cleaned as part of routine maintenance. Again it's highly improbable that if this component had been faulty from the outset the vehicle could have covered such mileage.

It's not in doubt that this vehicle has experienced faults. And where those faults were probably not down to wear and tear - including the clutch replacement and oil leak - these have been repaired at no cost to Mrs B. And compensation for inconvenience has been paid.

But Moneybarn is not responsible for the general costs of maintenance and replacing items which become faulty and/or require replacement due to wear and tear. So I'm not going to ask Moneybarn to do anything else in relation to this complaint.

Whilst I know it will disappoint Mr and Mrs B I'm not upholding this complaint.

my final decision

For the reasons given above my final decision is I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Mrs B to accept or reject my decision before 14 July 2019.

Stephen D. Ross
ombudsman