

complaint

Mr C complains that a car that was supplied to him under a conditional sale agreement with Moneybarn No. 1 Limited wasn't of satisfactory quality and about the service that he's received from Moneybarn.

background

A used car was supplied to Mr C under a conditional sale agreement with Moneybarn that he signed electronically in December 2017. Mr C complained about an oil leak from the engine which stemmed from inadequate repairs after the car had been involved in a collision before it was supplied to Mr C. Moneybarn agreed that he could reject the car but said that it wouldn't refund the monthly payments that he'd made. Mr C wasn't satisfied with its response so complained to this service.

The investigator recommended that this complaint should be upheld in part. He said that Mr C had driven 17,000 miles in the car so had had the benefit of the car. So he didn't recommend that Moneybarn should refund the monthly payments that he'd made. But he recommended that it should: collect the car and cancel the agreement; remove any adverse information with the credit reference agencies in relation to the period prior to the complaint being referred to this service; and pay Mr C £250 compensation for the delay and the inconvenience he'd been caused (but he said that that payment should be deducted from the amounts that are owed by Mr C).

Mr C has asked for his complaint to be considered by an ombudsman. He says, in summary, that the car was misrepresented to him and that some of his monthly payments should be refunded to him. His account is in arrears and he says that Moneybarn should also reimburse him for the money that he's spent repairing and maintaining the car and on GAP insurance. Moneybarn has accepted the investigator's recommendations.

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 has accepted that Mr C can reject the car and it's agreed to cancel the conditional sale agreement and to arrange for the car to be collected from him. It's also agreed to remove any adverse information about the agreement that it's recorded on Mr C's credit file relating to the period prior to the complaint being referred to this service and to pay £250 compensation to Mr C for the distress and inconvenience that he's been caused.

The conditional sale agreement shows that the car's mileage at the time that it was supplied to Mr C was about 58,000. And when the car was inspected in June 2018 its mileage was recorded as being 74,104. So in six months Mr C had used the car to drive more than 16,000 miles. Mr C has been asked to provide information about the car's current mileage – but he's refused to do so and says that there's no mileage limit in the agreement. But it's clear that Mr C has made substantial use of the car since it was supplied to him. So I'm not persuaded that it would be fair or reasonable for me to require Moneybarn to refund to him any of the monthly payments that he's made under the agreement. I understand that Mr C hasn't made all of the monthly payments that were due under the agreement since he complained to Moneybarn – so there are arrears on his account. I consider that Mr C remains liable for those arrears and that Moneybarn is entitled to seek to recover those

arrears from Mr C to the extent that it's legally entitled to do so. But it's agreed to remove any adverse information about the agreement that it's recorded on Mr C's credit file relating to the period prior to his complaint being referred to this service. I consider that to be fair and reasonable.

Mr C has also said that he should be reimbursed for the money that he's spent on repairing and maintaining the car and for GAP insurance. I consider that the repair and maintenance costs are normal running costs of a car – and that isn't something for which Moneybarn would be liable under the conditional sale agreement. So I'm not persuaded that it would be fair or reasonable for me to require it to refund those costs to Mr C. And he didn't include GAP insurance in his original complaint to this service so Moneybarn hasn't been given an opportunity to respond to that issue and I can't consider it as part of this complaint. If he wants to claim a refund of the GAP insurance, he should first complain to Moneybarn and, if he isn't satisfied with its response, he may then be able to complain to this service.

There have clearly been delays in Moneybarn responding to Mr C's complaint and other service issues which will have caused Mr C distress and inconvenience. Moneybarn has agreed to deduct £250 from the amount that it's owed by Mr C to compensate him for that distress and inconvenience – and I consider that to be fair and reasonable in the circumstances. But I'm not persuaded that it would be fair or reasonable for me to require Moneybarn to refund any other money to him – or to take any other action in response to his complaint.

my final decision

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

1. Cancel the conditional sale agreement and arrange for the car to be collected from Mr C – both at no cost to him.
2. Remove any adverse information about the agreement that it's recorded on Mr C's credit file relating to the period prior to his complaint being referred to this service.
3. Reduce the amount that it's owed by Mr C by £250 to compensate him for the distress and inconvenience that he's been caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 20 October 2018.

Jarrold Hastings
ombudsman