

## **complaint**

Mr D has complained the car he bought under a conditional sale agreement with Moneybarn No. 1 Limited, trading as Moneybarn, wasn't fit for purpose.

## **background**

Mr D bought a car in August 2014. Within a month he had some problems as the car wasn't running properly. He got the car fixed. Within five months, the car was no longer driveable as it was only operating on three cylinders. Mr D discussed options with Moneybarn. After bringing his complaint to the ombudsman service, our adjudicator arranged a settlement between Moneybarn and Mr D. This involved having the engine replaced and Mr D paying part of the cost.

The dealer involved in doing the work stopped business. It was realised although the engine had been replaced, this was sub-standard. Moneybarn arranged another garage to do the work. Mr D was unhappy at how long things were taking. He'd now been without his car for six months.

The new garage discovered the car's engine control unit was faulty. Our adjudicator felt Mr D should now be allowed to reject the car. He also asked Moneybarn to pay back his original deposit and monthly payments since March. Moneybarn didn't feel this outcome was fair and asked an ombudsman to review the complaint. They pointed to the new garage's view that Mr D had arranged for work to be done to the car. They believed this had caused the current problems.

## **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 appreciate Moneybarn doesn't think we should be re-considering Mr D's complaint as there had been an agreed settlement. I've thought about this carefully. I could dismiss this complaint as settlement had been agreed but I believe this would be harsh. There are new circumstances about this case which I feel it's fair to both parties to consider. I'd add this case had not been subject to an ombudsman's final decision.

The work, as previously agreed in August, has now been completed. However when completing this work, the garage discovered what is thought to have caused the initial problem – a faulty engine control unit caused by the car being remapped. The garage – and Moneybarn – now believe this was done by Mr D. They've told us Mr D told them this.

Unfortunately I don't believe he did. Firstly this is the opposite to what he's told us. And I've seen evidence from a company that did work on the car more than a year ago. They pointed out then the car had more than likely been remapped in the past. And the new garage agrees there's been a lot of modification done to this car over its lifetime. This would certainly explain why a car, with relatively low mileage, should suffer from the problems this one has had.

Overall I agree with our adjudicator's conclusions. Mr D has only had use of his car for slightly more than six months since he bought it more than a year ago. During the time, the car wasn't driveable or in different garages, he had to make alternative arrangements to get around on a limited budget. I have taken this into account when considering what a fair outcome is. Just to make sure this is clear; I'd add Moneybarn are no longer able to ask Mr D for the contribution to the costs of the engine.

I'm also aware the car is still being kept by the new garage and I suggest Moneybarn arrange to pick it up to limit the inconvenience being caused to them.

### **my final decision**

For the reasons I've given, my final decision is to instruct Moneybarn No. 1 Limited, trading as Moneybarn, to:

- Take back the car and cancel Mr D's conditional sale agreement;
- Reimburse monthly payments from March 2015 to date;
- Pay back the deposit of £4,795;
- Add 8% to all of those amounts from the date Mr D paid them until the date of settlement; and
- Refund all insurance, road tax and GAP insurance costs Mr D has had since March 2015, along with 8%.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 30 December 2015.

Sandra Quinn  
**ombudsman**