

complaint

Mr M complains that a car he acquired on finance through Moneybarn No. 1 Limited isn't of satisfactory quality.

background

Mr M acquired a second hand car in May 2017 on a conditional sale agreement. The car was around eight years old, had travelled around 85,500 miles and was sold without a service history.

In early August 2017, Mr M complained to Moneybarn because the car had a fault which needed the engine to be replaced. Moneybarn arranged for an independent engineer to inspect the damage.

The engineer said there was a loud noise coming from the engine which was due to big end bearing wear. He said the fault was due to either general in service wear or the engine being run with insufficient oil. He concluded that the car was likely to have been fit for purpose at the point of sale. This was because the car had passed an MOT in March 2017 and had a service in June 2017, with neither mentioning any engine noise.

Mr M commissioned a second report from a different engineer. That report agreed the fault was big end bearing wear and that it was due to the engine being run low on oil. But he thought the fault was likely to have been present at the point of sale. This was because Mr M had only travelled around 2,400 miles in the car. And he said the car had been a finance repossession with no service history, so it was clearly visible the car had been poorly maintained previously.

Moneybarn didn't think it was responsible for the fault because its report had said the faults weren't present at the point of sale. It said Mr M's report hadn't come from a recognised VAT registered company and the report hadn't commented on the MOT or service. It said the car was second hand with no service history, so it was reasonable to expect it to need more maintenance.

Our investigator didn't think Moneybarn had done anything wrong. He said he was more persuaded by the first engineer's report. This was because the second engineer didn't appear to be particularly impartial and had made several assumptions rather than commenting on fact.

Mr M didn't agree. In summary, he said:

- The engine bearing failure is not a wear and tear item. The engine had suffered a sudden mechanical failure.
- The first report was wrong to say the MOT would've failed if there was a knocking sound from the engine.
- Both reports said the car had been run with insufficient oil sometime in the past.
- It's not reasonable to expect a car of this age and mileage to have a severe mechanical failure.
- The oil levels have been maintained since sale, but the damage had been caused previously.

The complaint has been passed to me for 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.

The relevant legislation says Moneybarn is responsible for providing a car of satisfactory quality. But what is considered satisfactory will vary depending on a range of things. These would include the age and mileage of the car, the price that was paid and the description given to the goods at the point of sale.

The car was around 8 years old and had covered a fairly high mileage overall (although not relative to its age). So it wouldn't be reasonable to expect it to be in the same condition as a brand new car. It was also sold without a service history. So Mr M ought to have reasonably known he was taking on some additional risk. By that I mean it was likely this car may not have been in as good a condition as one which had been serviced regularly.

The two engineer reports have conflicting opinions as to whether the big end bearing fault was likely to have been present at the point of sale. But on balance, I'm more persuaded that it wasn't. I'll explain why.

I agree with Mr M that it's unlikely the MOT would've picked up the engine noise as this doesn't appear to be something that is checked. But Mr M didn't complain about any engine noise when he took possession of the car, so I'm satisfied it wasn't present at the point of sale.

I've also noted that Mr M arranged for the manufacturer to complete a full service on the car in June 2017. I've seen the manufacturer service includes a road test of the engine and a road test for abnormal noises. But nothing adverse about the engine or any noise was reported to Mr M following that service. And Mr M didn't report any fault to Moneybarn for almost two months after that service. For these reasons, I'm more persuaded by what the first engineer report said – that it's more likely the fault developed after the car was in Mr M's possession.

Mr M says that both engineers agree the fault is due to the car having been run on low oil before he took possession of it. But I don't think they have said that. The first engineer said the fault could be due to one of three different things – one of which was low oil. The other two were Mr M's driving style or just normal age related wear and tear.

The second engineer appears to assume the car had been run on low oil because it was sold without a service history and had previously been a finance repossession. But he hasn't backed up these assumptions with any persuasive reasoning or evidence. So I don't think I could reasonably rely on the second engineer's assumption.

Whilst it's very unfortunate what's happened, I'm not persuaded the car was of unsatisfactory quality at the point of sale. So taking everything into account, I don't think I can reasonably hold Moneybarn responsible for the fault.

my final decision

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 5 March 2018.

Tero Hiltunen
ombudsman