

## complaint

Mr G complains that a vehicle he had on finance with Moneybarn No. 1 Limited ("Moneybarn") was developing faults at the point of supply and was therefore of unsatisfactory quality. He also complains that he wasn't told the car had been in an accident before he took receipt of it.

## background

In June 2017 Mr G took receipt of a used vehicle. The car had completed 113,000 miles at the point of supply and was almost six years old. Mr G financed the deal through a conditional sale agreement with Moneybarn.

But he experienced problems with the car about five months later. He took it to a garage who said it had been in a previous accident. They said there were warning lights illuminated; the clutch and flywheel had failed; there were substandard repairs to the electrics and the sub frame was cracked.

Mr G therefore contacted Moneybarn and complained that it was clear he'd been sold a faulty car. But they didn't agree. They explained that the clutch and flywheel were not expected to last the whole life of the car and as Mr G's car had already completed 113,000 miles when he took receipt of it, they thought it most likely the problems he now had were due to normal wear and tear. They noted that the car had passed its MOT in June 2017 and they didn't think this would have been likely if the faults, Mr G was now reporting, were present at the time.

Mr G was dissatisfied with Moneybarn's response so he referred his complaint to this service and Moneybarn agreed to commission an independent engineer's report. Our adjudicator reviewed all of the evidence and was able to consider the independent report as well. She didn't think there was enough evidence to suggest the vehicle was faulty or developing faults when it was supplied. She explained that the vehicle had already completed significant mileage when Mr G first took receipt of it and it was to be expected that there'd be some issues developing through wear and tear. She didn't think she'd been provided with any evidence that the faults were there at the beginning and she noted the car had passed its MOT in June; which she didn't think would have been likely if the faults being reported were present. She explained that she'd tried to contact the garage who had reported the problems but they hadn't answered her calls and she explained that she couldn't accept the letter Mr G had supplied from them, as it was in editable word format and didn't refer to the car's mileage or the date repairs were attempted.

She went on to consider the independent engineer's report. She noted he'd not been able to inspect the condition of the flywheel or clutch as there was substantial, and recent, impact damage that had rendered the car un-driveable. She noted that the engineer considered this damage had been caused by a "*substantial impact during the last journey*" and that there was no evidence, in the report, that there were any faults with the car at the point of supply. So she didn't think Moneybarn needed to take any further action.

But Mr G was still dissatisfied. He explained that the impact had been a minor one when the car had hit a kerb; travelling at less than 10 miles per hour. And he explained that this was a result of the electrical problems in the car knocking the anti skid mechanism off and causing the car to skid. So he asked for a final decision by an ombudsman.

## 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 agree with the adjudicator's view and for similar reasons. Please let me explain why.

Where the information I've got is incomplete, unclear or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Mr G acquired his car under a conditional sale agreement. The relevant law says that the car should have been of satisfactory quality when supplied. If it wasn't then Moneybarn is responsible and I'd think it fair and reasonable to ask them to put this right.

But Moneybarn's responsibility for the car is not unlimited. Whilst they are responsible for its condition at the point of supply they are not responsible for problems that arise later.

And here I don't have sufficient information to suggest there was a fault at the point of supply because:

- the independent engineer has said the impact damage is more recent
- the independent engineer hasn't provided any evidence that the flywheel or clutch was faulty at the point of supply
- Mr G hasn't provided any evidence of this either, as
- I don't think I can consider the letter he's provided from the garage he reported the faults to. I say that because it's in editable word format; not letter headed and there are no details of the date of reporting or the car's mileage: I'd expect to see those. It's also not been possible for the adjudicator to get in touch with the garage referred to in the document so I'm not persuaded this is reliable evidence
- the car passed an MOT in June and I think the accident damage would have been reported at that point if it were present.
- the clutch and flywheel issues have not been inspected but I don't think it's unusual for a car of this age, and especially of this significant mileage, to experience such problems through normal wear and tear.

So overall, I am not persuaded that there is evidence this car was of unsatisfactory quality when supplied.

I note that Mr G also suggested that the vehicle had been misrepresented to him as the garage had suggested it'd been in an accident and he complained that he should've been told about that. If I thought this was the case then I'd have expected it to have been reported to Mr G at the time and the relevant legislation would suggest Moneybarn should do something to put things right.

But I've not been provided with any evidence there was accident damage before Mr G took receipt of the car. In fact there is evidence to the contrary as I don't think it would have passed its MOT; the independent inspector has explained that there's been a "*substantial*

*impact during the last trip*" and Mr G has now explained that the car did hit a kerb, albeit at low speed, whilst in his possession. Had the car been in a previous accident I would've expected the HPI check that was conducted to have shown this but that also showed up as clear. So I don't think there's evidence here that the car was misrepresented to Mr G either.

**my final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 9 May 2019.

Phil McMahon  
**ombudsman**