

The complaint

Miss G complains about the quality of a used car that was supplied through a conditional sale agreement with Moneybarn No.1 Limited (MB).

What happened

In September 2022, Miss G acquired a used car through a conditional sale agreement from MB. The car was about nine years and five months old and had travelled about 69,000 miles when it was supplied to Miss G. The cash price of the car was £5,899. Miss G made an advanced payment of £500, so the total amount financed on the agreement was £5,399 payable over 60 months.

Miss G said that within six months of acquiring the car she had to bring it into the garage on four separate occasions, for issues which included the engine, ABS, and brakes. However, In April 2023 Miss G informed MB that her car broke down again and required a new engine. Miss G complained that there's been no investigation of the engine and that she was told the cause is due to wear and tear.

Miss G says the issues with her car have caused her great deal of stress and has impacted her job and mental health. She says she wants her debt cancelled.

On 25 April 2023 MB issued their final response to Miss G's complaint. MB confirmed the complaint was raised to them on 10 April 2023 and that Miss G requested to reject the car. However, MB didn't uphold the complaint as they concluded Miss G had significant use of the car, and so it was likely wear and tear that had caused the issues. MB said as they were notified seven months after the car was supplied, Miss G should prove the issues were present or developing at the point of supply.

Unhappy with their decision, Miss G brought her complaint to our service for investigation. In August 2023 Miss G arranged for an independent inspection to be carried out on the car. The investigation report concluded that the issues with the engine were likely caused due to incorrect repairs, not carried out to a manufacturer's standard nor using manufacturer parts.

MB confirmed to our investigator that the dealership only carried out one repair to the car which was not related to the engine.

Having considered all the information on file, the investigator recommended that Miss G's complaint should not be upheld. The investigator concluded, in light of the failed repairs, the lack of evidence that the dealership had carried them out, and with the mileage travelled, that the car was of satisfactory quality when it was supplied.

Miss G didn't accept the investigator's outcome so asked that her case be referred to an ombudsman for a final decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and

reasonable in the circumstances of this complaint.

In considering what is fair and reasonable, I've thought about all the evidence and information provided afresh and the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

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.

Miss G complains about a conditional sale agreement. Entering into consumer credit contracts like this is a regulated activity, so I'm satisfied we can consider Miss G's complaint about MB. MB is also the supplier of the goods under this agreement, and is responsible for a complaint about their quality.

The Consumer Rights Act 2015 (CRA) is relevant in this case. It says that under a contract to supply goods, there is an implied term that "*the quality of the goods is satisfactory, fit for purpose and as described*". To be considered as satisfactory, the CRA says the goods need to meet the standard that a reasonable person would consider satisfactory, considering any description of the goods, the price and all the other relevant circumstances.

So, it seems likely that in a case involving a car, the other relevant circumstances a court would consider might include things like the age and mileage at the time of sale and the vehicle's history.

My starting point is that MB supplied Miss G with a used vehicle that had travelled 69,000 miles. With this in mind, I think it's fair to say that a reasonable person would expect the level of quality to be less than that of a brand-new car with lower mileage; and that there may be signs of wear and tear due to its usage which may impact its overall quality and reliability, so there'd be an increased likelihood of unforeseen problems surfacing sooner than in a new vehicle. The car was also priced at less than £6,000 which I think is fair to say is a significant reduction from what it would have been brand new and is reflective of its worn condition. From the information provided I'm persuaded there were faults with the car. This is apparent from the independent inspection report which confirmed there was a leak within the coolant system. The dealership also confirmed to MB that they'd carried out a repair to the ABS sensor and Miss G confirmed with invoices of other repairs carried out, including an E valve being fitted. Having considered the car had a fault, I've considered whether it was of satisfactory quality at the time of supply.

satisfactory quality

Miss G said her car broke down seven months after supply. According to the independent inspection report, the breakdown occurred in April 2023, with a mileage of 73,416. At the point of the independent inspection report the mileage was 76,149. This means Miss G had managed to travel over 6,000 miles in total. I also can see from the inspection report that around 3,500 of those miles were accrued after the car had broken down, which persuades me the issues with the engine was likely to have been exacerbated through some usage.

The main cause of breakdown appears to be related to the coolant and oil leak. In a phone call to the investigator, Miss G said that she had to top up the coolant fluid prior to the breakdown which further supports this.

The independent report says the issues are due to incorrect repairs to the cooling system, however I have no evidence of who carried out the repairs or when. Both parties have denied arranging and carrying out the repairs noted in the report.

I recognise what Miss G has said about not arranging the repairs in question, and that the repairing garage should take responsibility. However, without the evidence of when the repairs took place, or by whom, I'm not able to say that Miss G was supplied a car in an unsatisfactory condition. I don't think it'd be reasonable to place liability on MB for this without sufficient evidence.

The newer a vehicle is, and the lower the mileage, it becomes more reasonable to say that engine failure shouldn't occur so soon after supply, and tracking repairs are likely to be more straight forward.

I think it's worth noting that the older and more used a vehicle is, there's an increased likelihood that it would require maintenance and that previous repairs would have been carried out. With the availability of local garages and mechanics, vehicle repairs are not always carried out by approved manufacturer garages, and this increases the risk of manufacturer's repair standards not being achieved, as was identified in the inspection report.

In consideration of the age, mileage, and price of the car, together with the fact Miss G was able to have fair usage in the time she had it, I think it's reasonable to say there was an increased likelihood of things going wrong.

All things considered, and from the evidence provided, I'm persuaded the car was of satisfactory quality when it was supplied to Miss G, and so I don't require MB to take any action in relation to this complaint

My final decision

Having thought about everything above along with what is fair and reasonable in the circumstances I don't uphold Miss G's complaint against Moneybarn No. 1 Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 14 April 2024.

Benjamin John
Ombudsman