

## **The complaint**

Mr B complains about the quality of a car supplied to him by Moneybarn No. 1 Limited (“Moneybarn”).

### **What happened**

Mr B acquired a used car under a conditional sale agreement with Moneybarn in July 2023. The car cost around £12,095. Mr B paid a deposit of £1,500. Under the agreement, Mr B was required to make 56 payments of £348.76. At the time of supply, the car was around 10 years old and had covered around 106,950 miles.

In February 2024, Mr B contacted Moneybarn and raised a complaint about a fault with the car. He said there was a sound coming from the gearbox which was likely to be a flywheel failure and when the car was cold, there was a smell.

Moneybarn issued its response to Mr B’s complaint in March 2024. It said Mr B hadn’t provided any supporting information to demonstrate there was a fault with the car. It also said the issues with the car Mr B had raised, didn’t occur until six months after Mr B was supplied the car. So it said these issues were considered as wear and tear.

Unhappy with this, Mr B referred his complaint to this service. He said a garage had confirmed that the flywheel/clutch was faulty and needed replacing.

Our investigator looked into the complaint but thought the car was of satisfactory quality when it was supplied. She said whilst she thought there was a fault with the car, Mr B had been able to use the car for seven months and no parts had been replaced within the car yet. She said the information from the third party garage suggested the flywheel hadn’t currently failed but may well do in the future. She also noted that the car had passed an MOT in February 2024.

Mr B disagreed. He said the car was faulty at the time it was supplied to him and the issue with the flywheel would take months to develop. He said the MOT test result was irrelevant because it didn’t check the flywheel as part of the test. He also said the handbook containing the service history had been misplaced and instead he was given a printout, Mr B said he had been left with a car that he’d need to pay around £4,700 to repair. He said the issues with the car started in late January 2024 and he had been misled by Moneybarn throughout the complaints process.

As Mr B remains in disagreement, the complaint has been passed to me to decide.

As part of this complaint, I’ll only consider the complaint points Mr B has raised with Moneybarn. These are the faults with the flywheel, clutch and that there was a smell with the car when it was cold. Mr B has raised a number of further issues since the complaint has been referred to this service. But he’ll need to raise these with Moneybarn before this service is able to consider a complaint about them.

### **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.

Where evidence is incomplete, inconsistent or contradictory, I reach my view on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available evidence and wider circumstances.

I've read and considered the whole file and acknowledge that Mr B has raised a number of different complaint points. I've concentrated 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. The rules of this service allow me to do this.

What I need to decide in this case is whether the car supplied to Mr B was of satisfactory quality. If I don't think it was, I'll need to think what's fair, if anything, to put things right.

The finance agreement in this case is a regulated conditional sale agreement. So our service is able to consider complaints relating to it. Moneybarn is the supplier of the car under this type of agreement and so is responsible for dealing with a complaint about its quality.

The Consumer Rights Act 2015 ("CRA") covers conditional sale agreements. Under a conditional sale agreement, there are implied conditions that the goods supplied will be of satisfactory quality.

Mr B acquired a car that was used – so there would be different expectations compared to a new car. Having said that, the car's condition at the point of supply, should have met the standard a reasonable person would consider satisfactory, taking into account its age, mileage and price. The CRA says the aspects of the quality of the goods includes their general state and condition alongside other things such as their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability.

In this case, Mr B says the car first had a problem in late January 2024. The supporting information confirms that Mr B told Moneybarn about problems with a noise from the gearbox and a smell whilst the car was cold on 8 February 2024. This was around seven months after the car was supplied to Mr B, during which he had been able to cover around 4,950 miles in the car.

Mr B provided an email from a third party garage in March 2024. This states, "*Upon quick investigation it does seem that your car will need a new Clutch Flywheel in the near future*". He also provided a quote from a manufacturer represented garage which quoted a repair for the flywheel, clutch, oil and fitting items for around £4,750.

Having carefully considered this, I'm satisfied the car supplied to Mr B was faulty as an independent garage has confirmed there appears to be an issue with the flywheel and clutch.

There is no mention of a smell being identified when the car was cold by either independent garage. As no supporting information has been provided to demonstrate this issue, I haven't considered it.

I now need to consider whether the fault with the clutch and flywheel makes the car of unsatisfactory quality.

Mr B has provided information to confirm that the car has a fault. However, this information doesn't confirm when the fault occurred or more importantly why the fault occurred. The information provided also suggests that the car will need repairs in the near future, not currently. So, rather than the clutch and flywheel actually having failed, it seems that there is a developing issue with these parts which will result in them needing replacement.

The car was around 10 years old at the time it was supplied and the mileage was around 106,950. One of the considerations of whether goods are of satisfactory quality is durability. Here, the clutch and flywheel may need replacing when the car is around 11 years old and has covered in excess of around 112,000 miles.

Having thought about this, I think a reasonable person would consider that a clutch and a flywheel may need replacing at this point. They are both serviceable items and items that will wear over time due to use of the car. Mr B was also able to cover around 4,950 miles in the car before he first noticed the issue. I appreciate he only had the car around seven months at this point, but he was able to use it for this time without issue.

I also think it's unlikely that the issues with the flywheel or clutch were developing at the point the car was supplied to Mr B, as he was able to cover around 4,950 miles in the car, without issue. If these issues were developing at the point the car was supplied to Mr B, I would have expected the issues to present themselves earlier. So, considering the age and mileage of the car at the time Mr B first noticed any issues, I'm satisfied that both the clutch and flywheel were sufficiently durable components. It follows that I think the car was of satisfactory quality when it was supplied to Mr B.

Overall, I think the car supplied to Mr B was of satisfactory quality and so, it follows that I don't require Moneybarn to do anything to put things right.

### **My final decision**

My final decision is that I don't uphold Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 31 July 2024.

Sonia Ahmed  
**Ombudsman**