

The complaint

Mr W complains that the car he acquired through Moneybarn No. 1 Limited (“Moneybarn”) wasn’t of satisfactory quality. He wants Moneybarn to repair or replace the car.

What happened

Mr W entered a conditional sale agreement in August 2023 to acquire a used car. At the time of acquisition, the car was ten years old and had been driven nearly 95,000 miles. Mr W told us:

- He’s had a number of issues with the car, but the final straw was when the electronic brake failed, and this is going to cost £1,500 to repair;
- while the car was being examined at the garage, he was told it was heavily corroded underneath and was dangerous to drive;
- there’s no way that this corrosion happened recently, it must have been like that for some time, and it should not have passed its most recent MOT;
- the company that provided him with a warranty won’t cover this; it says it’s wear and tear.

Moneybarn rejected this complaint. It said if an issue is reported with a vehicle after the first six months of the agreement commencing, the onus on proving that these issues were present at the time of sale falls on the customer. And it asked Mr W to provide evidence of the issues he’d reported, and that they’d been present within the first six months of the vehicle purchase.

Moneybarn said that although Mr W had sent it some information about the current faults he was experiencing, he’d provided nothing to show that they were present or developing at the point of sale. It said he’d had the car more than eight months, and it was of the view that *“the issues raised were typical wear and tear items which may normally occur during the lifetime of the vehicle”*.

Moneybarn said the handbrake is tested as part of the manufacturer’s service schedule, and its correct and efficient operation forms part of the MOT test. And it said that as the handbrake was a wear and tear item, liability for it fell to Mr W. It went on to say that the corrosion mentioned by Mr W was also down to wear and tear, and that neither of these issues were picked up in the MOT that took place the month before Mr W acquired the car. It concluded that *“there is an expectation with a second-hand vehicle that there will be some wear to the components and that this will form part of the normal ongoing maintenance required”*.

Mr W brought his complaint to this Service, and he also complained about some other issued he’d subsequently had with the car, including a blocked DPF (diesel particulate filter).

Our investigator looked at this complaint and said she didn’t think it should be upheld. She said she accepted there was a fault with the car but – given the time Mr W had been in possession of it, and the mileage he’d driven – she’d seen no evidence it was present or developing at the point of supply and, in view of the age of the car, it was more likely than

not that the fault he'd experienced with the handbrake and the corrosion was simply a result of normal wear and tear.

Our investigator said the other faults and issues that Mr W had complained about weren't things she could look into. An issue with the infotainment system and the boot had been raised with the selling dealership and successful repairs had been completed; so, there was no way to assess those issues now to establish whether they were present or developing at the point of sale. And although Mr W had complained about the DPF, he hadn't raised his complaint about it with Moneybarn; she explained that this Service cannot investigate a complaint unless the business – in this case Moneybarn – has had the opportunity to investigate the matter first of all, or alternatively, grants consent to us to investigate additional complaint points – something that Moneybarn has explicitly not done in this case.

Mr W disagrees so the complaint comes to me to decide. He says his car shouldn't have developed this many faults in the year he's had it, and he wants his complaint about Moneybarn looking at again because the car it supplied was not of satisfactory quality.

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.

Having done so, I agree with our investigator – I don't think this complaint should be upheld – and I'll explain why.

When looking at this complaint I need to have regard to the relevant laws and regulations, but I am not bound by them when I consider what is fair and reasonable.

As the conditional sale agreement entered into by Mr W is a regulated consumer credit agreement, this Service is able to consider complaints relating to it. Moneybarn is also the supplier of the goods under this type of agreement, and it is responsible for a complaint about their quality.

Under the Consumer Rights Act 2015 ("CRA") there is an implied term that when goods are supplied "the quality of the goods is satisfactory". The relevant law says that the quality of the goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, price and all other relevant circumstances.

The relevant law also says that the quality of the goods includes their general state and condition, and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability can be aspects of the quality of the goods. So, what I need to consider in this case is whether the car *supplied* to Mr W was of satisfactory quality or not.

Moneybarn supplied Mr W with a used car – it was ten years old and had been driven around 95,000 miles – so the price of the car was lower than it would've been if it had been supplied new. Because of this I think it's fair to say that a reasonable person would expect that parts of the car might've already suffered wear and tear. And there'd be a greater risk in the future that this car might need repairs and maintenance sooner than a car which wasn't as road-worn when supplied.

I don't think there's any dispute that Mr W has experienced problems with the car - that has been well evidenced by both his testimony and the photographs he's sent us. I've seen clear evidence of the corrosion under the car, and an invoice for the required work to repair the

hand brake. But just because Mr W has had problems with the car, and things have gone wrong, it doesn't necessary follow that the car supplied to Mr W wasn't of satisfactory quality.

Moneybarn would only be responsible for putting things right if I'm satisfied that these issues were present or developing when the car was supplied – that is to say, the car wasn't of satisfactory quality when Mr W acquired it in August 2023. And I haven't seen anything, for example, an independent engineer's report, that shows me that these faults were present or developing when the car was supplied to Mr W.

Furthermore, I've also noted that the car passed its MOT just before Mr W acquired it, and there's no mention of a fault, developing or otherwise, with the handbrake, and no reference to corrosion at the level that would make the car dangerous to drive - something that I would've expected had these faults been present at this time.

Moreover, I've noted that Mr W has driven nearly 6,000 miles in the months between acquiring the car and raising the matter of the faults. And I don't think this would've been possible had the issue with the handbrake been present when he acquired the car in August 2023.

Because of this, and in the absence of an independent engineer's report showing otherwise, then considering all the relevant circumstances, I'm not persuaded that Mr W's car was of unsatisfactory quality when supplied. So, I can't hold Moneybarn responsible for the problems Mr W has experienced with it.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 13 January 2025.

Andrew Macnamara
Ombudsman