

The complaint

Mr L complains about the quality of a car financed by Secure Trust Bank Plc trading as Moneyway ('Moneyway').

What happened

The facts are well known to both parties so I will cover these briefly and focus on giving reasons for my decision.

Mr L was supplied a car on a hire purchase agreement by Moneyway. However, he says that he has had numerous problems with it which has cost him a lot of money over time.

Moneyway would not provide Mr L with reimbursement for repairs so he complained and this complaint came to this service to resolve.

Our investigator looked into things but did not uphold the complaint. In summary, she was not persuaded the car was of unsatisfactory quality in the circumstances.

Mr L disagrees with this and has asked for a final decision. In doing so he has highlighted that:

- 4 injectors on the car failed within the first few months – and an expert has confirmed this is unusual and not his fault;
- he has spent several thousand pounds on repairs on the car since it was supplied to him; and
- the manufacturer issued a special notice which shows the issue he had with the timing chain is due to an inherent defect.

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.

Mr L has provided detailed testimony and clearly feels strongly about the quality of the car. While I have taken into account what he and Moneyway have submitted – I won't comment on everything. This is not meant as a discourtesy but it reflects my role in resolving disputes informally.

In considering what is fair and reasonable, I need to have regard to 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.

The agreement in this case is a regulated consumer credit agreement. As such, this service is able to consider complaints relating to it. Moneyway is also the supplier of the goods under this type of agreement, and responsible for a complaint about their quality.

The Consumer Rights Act 2015 is of particular relevance to this complaint. It says that under a contract to supply goods, there is an implied term that “the quality of the goods is satisfactory”.

I note that the invoice from the dealer has some information to suggest that the goods were potentially sold to Mr L in the course of business. I might be mistaken about this but for completeness if this were the case the Consumer Rights Act 2015 would not apply – however, it would not change my findings here as alternative legislation contains similar provisions around satisfactory quality.

The Consumer Rights Act 2015 says the quality of goods are satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account 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 take into account might include things like the age and mileage at the time of sale and the vehicle’s history.

The Consumer Rights Act 2015 says 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 goods.

My starting point here is that Mr L was supplied with a second-hand car which at the point of supply was about four and a half years old and had travelled 65,000 miles. Which means that the expectations regarding quality and the risk of possibly costly repairs is that much higher than a newer less road-worn car. I note that the car did cost around £7,888 (which is not an insignificant amount of money) however, when considering the reasonable expectations around its quality I also need to take into account that this is significantly less than what the car would retail for new.

I note that Mr L is unhappy he has had to spend a lot on repairs to the car since owning it and particularly in the first year. But I also note that in that first year of ownership he has covered around 27,000 miles which is significantly more than average annual mileage for a car and is likely to cause notable stress on the parts of an already road worn car. I also note that some of the things that have needed work are in relation to clearly serviceable items such as oil/filter/battery/plugs. Overall, the work that has been done appears to be down to wear and tear over time.

I note that Mr L has particularly focused on the earlier injector replacement and later issues with the timing chain to show the goods are not of satisfactory quality. I will address these issues in more detail.

I note that about four months into using the car Mr L needed all four injectors replaced at a cost of around £900. Mr L has said this should not have occurred on the car so soon into using it (and notes it was sold with a full service history). He has also had the garage which did the work make a statement to say they had never seen all the injectors go at once and that this was likely down to these becoming faulty over time and not because of something Mr L had done.

However, in coming to my conclusions here I note:

- When the injectors failed – although only four months or so in – the invoice from the mechanic which Mr L supplied shows the car had travelled around 10,000 miles in that time –which is significantly more than would be usually expected in that timeframe (and equates more closely to an average year of driving).
- The comments from Mr L's mechanic are not independent or that detailed and overall I do not find they persuasively show the car was of unsatisfactory quality at the point of sale. While they confirm Mr L has not caused the faults the comments do indicate they have developed over time. This isn't necessarily inconsistent with wear and tear from age and mileage, yet there is not sufficient detail addressing the issue of the age and mileage of the car up to the point of failure and how that has impacted the development of faults (as opposed to an inherent defect).

I also underline the factors I have already pointed out when buying a second-hand car including the fact it had already travelled significant mileage at the point Mr L was supplied it and the higher risk of unexpected repairs.

I have taken into account Mr L's comments about what the Consumer Rights Act 2015 says regarding the burden of proof when things go wrong in the first 6 months from supply of goods. However, I think there is sufficient evidence here (including the mileage travelled up to the point of failure) to show that the issue has likely been caused by wear and tear over time rather than the goods being of unsatisfactory quality at the point of sale.

Regarding the later issues including the replacement of the timing chain and other things (clutch, flywheel, alternator, coolant bottle) I note that these were repaired when the car was over five years old and had travelled around 92,000 miles. Which makes it very difficult (without compelling expert evidence otherwise) to say that the car was of unsatisfactory quality at the point of sale.

Mr L indicates the car was recalled – but I don't think the evidence shows there is any outstanding recall. It appears there was a manufacturer notice issued at some stage regarding servicing for certain parts (the full details of which are unclear) – but the evidence provided to date does not persuasively show that the issue Mr L had with his timing chain or other components (considering their age and mileage) is directly linked to an inherent manufacturing fault – as opposed to wear and tear over time.

I note that Mr L has said that the car was described as being in excellent condition and had a full service history. It isn't clear to me what description was used about the car as we don't appear to have the adverts. While it is certainly possible it was described as being 'excellent' at the dealership I think that in the particular circumstances (and considering the age and mileage of the car at point of sale and developing since sale) this would not reasonably rule out the possibility of the repairs and servicing which Mr L has come across.

I know Mr L has pointed to the overall cost of repairs over time and several issues he has had in the space of the first year of ownership. I am sorry to hear this. However, looking at the nature of the repairs and Mr L's overall use of the car over time (again noting that Mr L has added around 27,000 miles to a car that had already done 65,000) and considering the lack of persuasive evidence to show otherwise I do not think the car is persuasively of unsatisfactory quality at the point of sale. I know Mr L has pointed to goods being reasonably durable. I have in coming to my findings considered this. However, this has to be taken in light of the particular circumstances. I don't think there is persuasive evidence that the goods are not reasonably durable because the issues look to be down to overall wear and tear from extensive use of a second-hand car. As a result I don't consider it fair

and reasonable that Moneyway reimburse Mr L for repairs.

Mr L is likely to be disappointed by my decision and I am sorry to hear he feels the purchase has been poor value. However, my role here is to resolve disputes informally. He does not have to accept my findings and if he wishes he can pursue his dispute through more formal avenues such as court (seeking appropriate legal advice as he sees fit).

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 7 October 2023.

Mark Lancod
Ombudsman