

The complaint

Mr T complains about the quality of a used car that was supplied through a hire purchase agreement with RCI Financial Services Limited (RCIFS).

What happened

In May 2020 Mr T acquired a used car through a hire purchase agreement with RCIFS. The term of the agreement was 60 months and the purchase price was £8,438. The car was registered in June 2016, so it was about four years old and had travelled around 44,529 miles when it was supplied to Mr T.

Mr T says that on 6 June 2021 his car broke down. Mr T says he recovered the car to a garage who I'll refer to as garage A. An invoice provided by Garage A confirms a diagnostic was carried out and also confirms the engine damage was a result of a failed cambelt. The invoice also noted the mileage as being 54,889.

Mr T says Garage A suggested he take the car to a manufacturer dealer as the car required a new engine. Mr T says the manufacturer dealership, who I'll refer to as MD, advised they wouldn't assist with the costs of repair because the previous services carried out on the car hadn't been completed by a garage within their authorised dealer network. RCIFS also confirmed this in their final response to Mr T's complaint.

Mr T says he recovered the car to another garage, which I'll refer to as Garage B, where the car's engine was replaced along with some other engine related parts. An invoice from Garage B dated 9 August 2021 confirms Mr T paid £3,789 for the repairs. Mr T says he was without the car from the start of June to August 2021 while the car was being checked and repaired. Mr T told us he's experienced no further issues with his car since the repair.

In August 2021 Mr T complained to RCIFS about the issues with his car. In September 2021 RCIFS provided their final response. They didn't uphold the complaint. They advised that as the car was outside of the 60 day warranty when it broke down, and that the previous services were not carried out by an authorised dealer, they weren't liable to support with the repair costs. RCIFS however, offered one month's payment to Mr T as a gesture of goodwill.

Unhappy with their response Mr T brought his complaint to us. One of our investigators looked into Mr T's concerns and felt that the complaint should be upheld. The investigator felt that RCIFS hadn't acted fairly as she considered the car wasn't of satisfactory quality when it was supplied to Mr T

Unhappy with the investigator's view, RCIFS asked that the complaint be referred to an ombudsman for a final decision.

RCIFS provided some further comments to be considered by the ombudsman. In summary, they felt that in acquiring a used car that was outside of the manufacturer's warranty, with no service history and with the mileage it had, Mr T was taking a risk by doing so. They also couldn't see how there was a defect at the point of supply as Mr T had driven around 10,000 miles before the car broke down.

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.

The agreement in this case is a regulated hire purchase agreement. As such, this service is able to consider complaints relating to it. RCIFS 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. The CRA also explains the durability of goods is part of satisfactory quality.

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 RCIFS supplied Mr T with a used car that had travelled around 44,500 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. Having said that, the car was priced at £8,438 which isn't insignificant. It also wasn't a particularly old vehicle. So, I think that a reasonable person would expect it could be used free from any major issues for a reasonable period of time.

From the information provided it's clear to me that there was a fault with the timing belt which caused damage to the engine. This is apparent from the invoice provided from Garage A detailing the cause of the damage, and the confirmation from RCIFS that MD had also diagnosed the failure of the timing belt. Having considered the car had a fault, I've considered whether it was of satisfactory quality at the time of supply.

When Mr T's car broke down his car had travelled around 10,000 miles, the invoice from Garage A had the mileage recorded at 54,899, which confirms this. In his complaint email to us, and on the phone to our investigator, Mr T says the car was supplied with a full-service history. RCIFS, said in an email to us dated 18 January 2022 that the car had no service history. From the evidence provided I'm persuaded the car did have a service history. Although RCIFS said it didn't, they also confirmed that MD advised the car's previous services hadn't been carried out by a garage within their approved network. So, I think it's likely the car did have a service history, albeit not from an authorised manufacturer dealer as described by MD.

I think this is relevant because it supports that the car had been looked after and maintained. Having said that, Mr T says he was told by MD that the service for the timing belt was due in June 2022 or at around 100,000 miles. Mr T provided a document print out from MD showing when the scheduled timing belt service would be due on Mr T's car.

In consideration of this I don't think it's reasonable to expect that the timing belt should have failed significantly sooner than what the guidance said of its life expectancy.

The CRA 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. From the evidence provided I think it's fair to conclude that Mr T's car was not suitably durable because it suffered catastrophic engine failure at around 54,889 miles as the result of a part failing that should not reasonably have failed at that mileage. I do not think a reasonable person would expect to have to replace the engine on a car of this age and mileage so soon, so I do not consider the car was of satisfactory quality at the point it was supplied.

Having considered that Mr T's car wasn't of satisfactory quality when it was supplied to him, RCIFS will need to put things right.

In a phone call to our investigator in November 2021, Mr T said he was without a car from when his car broke down in June 2021 to August 2021. This is consistent with the invoice from Garage A dated 22 June 2021 and the invoice from Garage B dated 9 August 2021. In consideration that Mr T didn't have use of the car during those months, I'll be instructing RCIFS to refund to Mr T the monthly repayments of June and July 2021.

I'll also be instructing RCIFS to reimburse to Mr T the full costs of repairs and recovery of his car to Garages A & B. Mr T has provided us with invoices for the diagnostics and repairs and a bank statement to demonstrate the cost of recovery of his car to Garage B. The invoices and evidence provided shows that Mr T paid out a total of £5,075.99 to repair the damage caused as a result of the failed cambelt. This consisted of £910.99 for diagnostics labour, cambelt kit and recovery by Garage A; £420 for the recovery of the car to Garage B; and £3,745 from Garage B for supplying and fitting the engine and related parts.

£44 of Garage B's invoice was for a locking nut key which I've deducted from the total invoice amount of £3,789, as I consider this wouldn't have been related to the failed cambelt.

Mr T has also said that the situation has caused him stress and inconvenience. For example, Mr T says he had to borrow money to pay for the repairs. I think it's fair to say Mr T would have been considerably inconvenienced by the whole situation. I'm in agreement with our investigator that £150 compensation is a fair recognition of this in the circumstances. So, I'll be instructing RCIFS to pay this to Mr T.

My final decision

My final decision is that I uphold Mr T's complaint and instruct RCI Financial Services Limited to:

- refund to Mr T, the monthly repayments he's made for June and July 2021 for the loss of use of his car
- reimburse to Mr T £5,075.99 for the associated costs of repair to his car as explained in my decision
- pay Mr T £150 in compensation for the distress and inconvenience caused to him
- pay 8% yearly simple interest on all refunds and reimbursements calculated from the date of payment to the date of settlement

If RCI Financial Services Limited considers that it's required by HM Revenue & Customs to withhold income tax from the interest part of my award, it should tell Mr T how much it's taken off. It should also give Mr T a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 3 April 2022.

Benjamin John
Ombudsman