

The complaint

Miss G complains about the quality of a car she acquired through a hire purchase agreement financed by FCE Bank plc trading as Ford Credit (FCE).

What happened

In February 2019 Miss G acquired a new car through a hire purchase agreement.

Miss G said she noticed problems with the brakes very soon after acquiring the vehicle, along with some other problems. Investigations and repairs were conducted on the vehicle as follows:

July 2019 – De-dust and adjust the front brakes

August 2019 – De-dust and adjust the rear brakes, replacement of brake pads and passengers side door trim repaired.

October 2019 – Trim clip replaced, screw replaced on rear bumper and brakes investigated

January 2020 – De-dust and adjust the rear brakes

February 2020 – Replace rear brake shoes, tighten screw on passenger door to prevent a rattle and investigate fuel gauge reading incorrectly.

September 2020 – Front brake pads and discs replaced.

January 2021 – Wiring issue found resulting in lamp over number plate not working. Parts were ordered. Shortly afterwards, the alarm began to sound continuously, and the vehicle was left at the dealership, with a courtesy car being provided to Miss G.

Miss G complained to FCE in January 2021 about the quality of the vehicle. She said there had been many opportunities to repair the brakes, which were still squeaking, and as she was now experiencing issues with the alarm sounding all the time, she'd lost faith in the vehicle. Miss G asked to reject the vehicle.

FCE sent Miss G their final response to her complaint in February 2021. They agreed that the vehicle was of unsatisfactory quality at the time it was supplied to Miss G. They agreed that Miss G could reject the vehicle and it would be collected at no further cost to her. They refunded Miss G's deposit of £1,800.50. They said they wouldn't be refunding any of Miss G's monthly payments, because she'd had use of the vehicle.

The vehicle was collected, and the deposit refunded to Miss G in March 2021. Miss G says she also faced costs of around £300 after the car was collected because she had to hire a vehicle to keep her mobile until she could find a new one.

Unhappy with this, Miss G brought her complaint to us for investigation. Our investigator gave her view that the car was of unsatisfactory quality at the time it was supplied. She thought that FCE's agreement to reject the vehicle and refund the deposit was fair, and that they were able to retain the monthly payments because Miss G had use of the vehicle.

Our investigator also thought that FCE should pay Miss G £200 for the distress and inconvenience experienced in the multiple attempts to have the vehicle repaired, and she

later recommended that they should add 8% simple yearly interest to the refund of Miss G's deposit.

FCE accepted our investigators recommendations.

Miss G didn't agree. Miss G feels that FCE are profiting from the payments she'd made toward the agreement for two years, as she no longer has the option to purchase the vehicle at the end of the agreement. She's also had to put up with driving a faulty car for two years.

Miss G said she would be happy to pay for the mileage she covered in the vehicle, at the rate that FCE would charge her per mile if she'd exceeded the mileage allowance under the agreement. Miss G would like all payments over this amount to be refunded, minus the deposit she's already received. Miss G calculates this to be in the region of £5,000.

As an agreement can't be reached, the case has been passed to me for a 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's fair and reasonable, I need to have regard to the relevant law and regulations. The agreement in this case is a regulated hire purchase agreement – so we can consider a complaint relating to it. FCE as the supplier of the goods under this type of agreement is responsible for a complaint about their quality.

The Consumer Rights Act 2015 (CRA) is relevant 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"

FCE have accepted that a reasonable person wouldn't expect the faults that Miss G has experienced in a brand-new car, and that the vehicle was therefore of unsatisfactory quality when it was supplied. So, I've focussed on the action FCE have taken to put things right.

The CRA sets out the remedies available where goods are considered not to be of satisfactory quality and one of the remedies is to allow an opportunity to repair the goods. That repair should be done in a reasonable time, and without significant inconvenience to the consumer. FCE have had multiple chances to repair the car, and faults remain. So, I think Miss G should have been allowed her final right to reject the car.

FCE have allowed Miss G her right to reject the car. It has been collected at no further cost to her, and her deposit of £1,800.50 has been refunded.

Miss G says if the car wasn't faulty, she'd have been able to make payments until the end of the agreement term and would then have had the option to purchase the car. So, she feels the payments she's made toward a faulty car have been wasted and should be returned to her. But she'd pay the pence per mile charge that FCE would've charged her if she exceeded the annual mileage allowance.

FCE say that Miss G has had use of the car, so they don't think any of the payments she's made should be refunded.

Where a vehicle is rejected due to it being unsatisfactory quality, the CRA sets out that any refund due may be reduced by a deduction for use, to take account of the use the consumer has had of the goods.

Miss G entered an agreement to hire a vehicle from FCE, and a monthly price for that hire was agreed between them. The cost of the hire and the excess mileage charge are separate parts of that agreement, and the cost of hiring the vehicle isn't limited to the miles that Miss G covered. I think it would also include things like the cost of the credit provided, and any depreciation in value of the vehicle due to use.

Miss G travelled around 24,000 miles in the vehicle in the two years prior to rejecting it. The agreement set out an annual mileage allowance of 12,000 miles, so this is in line with the mileage allowance. I think Miss G used the vehicle in line with how she intended to when entering the agreement, and there hasn't been any notable loss of use or impaired use of the vehicle despite the faults.

Miss G was without the vehicle at various points when repairs were completed, but she was kept mobile with the use of a courtesy car at no cost to her.

I appreciate that Miss G feels she's wasted the payments as she no longer has the option to purchase a vehicle at the end of the agreement. But there's no guarantee that Miss G would've opted to pay the final payment in order to keep the car at the end of the agreement. And, if Miss G didn't have use of this vehicle, she would've needed to pay other costs in order to keep herself mobile.

All things considered, I'm satisfied that Miss G had fair use of the vehicle for around two years prior to it being rejected, and that her monthly payments during this time represent a fair cost for this use. So, FCE don't need to refund any of the monthly payments that Miss G paid.

Miss G said she faced costs when the vehicle was rejected, because she had to keep mobile until she could find another vehicle. When the vehicle was collected, the agreement between Miss G and FCE had come to an end, and Miss G was responsible for finding alternative transport. So, I don't think FCE are responsible for these costs.

Our investigator recommended that FCE pay Miss G £200 compensation. Miss G has been put to distress and inconvenience in arranging for a number of repairs to the vehicle. Overall, I'm satisfied that this compensation reflects the distress and inconvenience experienced by Miss G.

Our investigator recommended that FCE pay Miss G 8% simple yearly interest on her deposit refund, from the date of payment to the date of the refund, and FCE agreed to this. I think this is fair, as this is money that Miss G would've had access to, but for the faulty vehicle.

My final decision

My final decision is that I uphold this complaint and FCE Bank plc trading as Ford Credit must:

- Pay Miss G £200 compensation to reflect the distress and inconvenience caused
- Pay Miss G 8% simple yearly interest on her deposit refund, from the date the deposit was paid, to the date of the refund

If FCE considers that it's required by HM Revenue & Customs to withhold income tax from the interest part of my award, it should tell Miss G how much it's taken off. It should also give Miss G a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 20 April 2022.

Zoe Merriman
Ombudsman