

The complaint

Miss C complains about the quality of a car she has been financing through an agreement with Creation Consumer Finance Ltd ("Creation").

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead I'll focus on giving my reasons for my 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.

I know it will disappoint Creation, but I agree with the investigator's opinion. Please let me explain why.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments 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.

Miss C acquired her car under a hire purchase agreement. This is a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

The relevant law says, amongst other things, that the car should have been of satisfactory quality when supplied. If it wasn't then Creation, who are also the supplier of the car, are responsible. The relevant law also says the quality of goods is 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.

In a case like this which involves a car the other relevant circumstances would include things like the age and mileage at the time the car was supplied to Miss C. The car here was about three years old and had completed about 26,738 miles. So, I don't think a reasonable person would expect it to be suffering from too much wear and tear.

The relevant legislation explains that if the fault occurs within the first six months we are to assume it was present at the point of supply, when Creation were responsible for the car's quality, unless they can demonstrate otherwise.

Creation haven't provided evidence to dispute that the fault was likely to have been present or developing when the car was supplied to Miss C and they've offered a limited resolution of the problem. That resolution did not consider repairs to the differential. As the fault occurred only a couple of months after Miss C took receipt of the car and after she'd only completed about 2,500 additional miles, I would agree that it's most likely this fault was present or developing when the car was supplied.

In those circumstances the relevant legislation gives the business an opportunity to repair the fault.

I'm not persuaded a repair has been completed on the car as I think the fitting of the damper was part of the diagnostic – to allow the garage to identify where the noise was coming from.

So, I think Creation should complete a repair to the car and they'll also need to reimburse any costs Miss C has incurred as a consequence of the car failing.

Putting things right

Creation should repair the nearside differential at no cost to Miss C. That work is detailed in the estimate provided by the franchised dealership on 27 January 2022.

Miss C had to pay for a diagnostic check and has provided us with an invoice for that work. I think Creation should refund that as Miss C would not have incurred that cost had the car been of satisfactory quality. They'll need to add interest to that refund as Miss C has been deprived of the money.

Miss C has been inconvenienced by these issues. She's had to find a garage to diagnose the problem and has had to arrange transport and escalate her complaint to this service when I think it could have been resolved earlier. In those circumstances I think Creation should pay her £150 to reflect the distress and inconvenience caused.

Miss C has had very limited use of the car since 11 December 2021 and she wasn't kept mobile with a courtesy vehicle. I think Creation should therefore refund any finance instalments Miss C paid from 11 December 2021 until the car is repaired and returned to Miss C. They'll need to add interest to that refund.

My final decision

For the reasons I've given above I uphold this complaint and tell Creation Consumer Finance Ltd to:

- Repair the nearside differential at no cost to Miss C. That work is detailed in the estimate provided by the franchised dealership on 27 January 2022.
- Refund the £148.06 Miss C paid to have the fault diagnosed. Add 8% simple interest per year to that refund from the date of payment to the date of settlement.
- Refund any finance instalments paid since 11 December 2021 and until the car is repaired and returned to Miss C. Add 8% simple interest per year to that refund from the date of payment to the date of settlement.

- Pay Miss C £150 to compensate her for the distress and inconvenience she's experienced.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 5 May 2022.

Phillip McMahon
Ombudsman