

The complaint

Mr W is unhappy that a vehicle supplied to him under a hire purchase agreement with Oodle Financial Services Limited was of an unsatisfactory quality.

Mr W is being represented in this complaint by Company H. But, for ease of reference, I'll only refer to Mr W within my decision.

What happened

On 21 June 2019, Mr W was supplied with a used vehicle through a hire purchase agreement with Oodle. He paid a deposit of £1,000 and the agreement was for £14,812.50 over 60 months; with an initial payment of £355.51, 58 monthly repayments of £305.51, and final payment of £355.51. At the time the car was four years old and had done 39,282 miles.

Mr W said that, within two months of taking possession of the vehicle, he started having problems with the cooling and braking systems. And he said the engine was overheating. Despite visiting a garage several times, Mr W says the problems continued and the vehicle broke down on 31 January 2020. And he hasn't been able to use it since.

Mr W complained to Oodle. But Oodle said there was no evidence there were any faults with the vehicle when it was supplied to him. So, they didn't think they needed to do anything more. Mr W wasn't happy with this response, and he brought his complaint to us for investigation.

Our investigator initially said Mr W had provided evidence that the vehicle was faulty. But this evidence didn't suggest that the faults were present or developing when the vehicle was supplied to him. So, she didn't think Oodle were responsible for any repairs.

Mr W didn't agree with the investigator. And he arranged for the vehicle to be inspected by an independent engineer. The engineer said the vehicle had been suffering from a long-term coolant issue and there was *"sufficient evidence to confirm there was an underlying and developing condition at the time of sale."*

Oodle didn't accept the independent engineer's report, and they thought it would be impossible for Mr W to drive 12,000 miles with a fault that'd been present from the point of sale. And they thought the damage could only have been caused by Mr W's lack of care.

However, the investigator thought the independent engineer's report showed the vehicle wasn't of a satisfactory quality when it was supplied to Mr W. And she issued a second view saying Oodle should arrange for the vehicle to be repaired, refund any payments Mr W had paid since January 2020 (while the vehicle was off the road), refund Mr W's inspection costs, remove any adverse credit from Mr W's credit file, and pay him an additional £150 compensation for the distress and inconvenience he'd been caused.

Oodle arranged for a different engineer to inspect the vehicle. And this inspection took place on 13 December 2021. This report also confirmed that the vehicle had ongoing issues with the cooling system which, on the balance of probabilities, *"began before the date of sale."*

Based on this report, Oodle said they'd be prepared to allow Mr W to reject the car. They offered to refund Mr W the deposit and payments he'd made, reimburse the cost of the inspection he'd had done, pay him statutory interest, remove any adverse information from his credit file, and pay him £200 for the distress and inconvenience he'd been caused. However, because both independent engineers had said the engine block had suffered additional corrosion because of how it'd been stored, and this made repairs impossible, they'd look to reduce the refund by £3,000 to account for this additional damage.

Mr W rejected the offer from Oodle, as it didn't compensate him for the cost of the repairs he'd had done to the cooling system. He also felt that the additional corrosion to the engine block wasn't his responsibility, as it wasn't caused as a result of how he used the car.

I issued a provisional decision on 7 March 2022, where I explained my intention to uphold the complaint. In that decision I said:

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mr W was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

The Consumer Rights Act 2015 (CRA) says, amongst other things, that the car should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of goods, Oodle are responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history and its durability. Durability means that the components of the car must last a reasonable amount of time.

The CRA also says that goods must conform to contract within the first six months. So, where a fault is identified within the first six months, it's assumed that the fault was present when the car was supplied, unless Oodle can show otherwise. But, where a fault is identified after the first six months, it's for Mr W to show that it was present when the car was supplied. So, if I thought the car was faulty when Mr W took possession of it, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask Oodle to put this right.

It's not disputed that the vehicle Mr W was supplied with had a fault, or that that fault was present or developing at the point of supply. So, I'm satisfied that the vehicle wasn't of a satisfactory quality, and Oodle need to do something to put this right.

Both independent engineers have said the engine block is likely to need replacing. Given the cost of carrying out such a repair and because Mr W has had the engine stripped down since January 2020, I think Oodle's offer to allow Mr W to reject the vehicle, instead of having it repaired, is reasonable in the circumstances.

However, the first independent engineer said, "the cylinder block has been uncovered and left open to the elements; this has caused severe rusting to the cylinder face block." And the second independent engineer said "it should also be noted that the surface corrosion to the engine block has occurred as a direct result of the engine block not receiving the appropriate protection following stripping ... the visible water galleries in the block face and in the water pump block showed significant long term corrosion, which no doubt has worsened due to their exposure to the elements."

Mr W has said that this damage is not his responsibility, as it didn't result from how he used the car. But, after the engine was stripped and stored at his property, it was his responsibility to ensure the engine block was sufficiently protected so additional damage didn't occur. And he didn't do this. So, I think that Mr W has responsibility for this additional damage. And I also think that Oodle are acting reasonably by taking this into account, as I'd expect them to do with any type of damage that falls outside of fair wear and tear guidelines.

Mr W was supplied with the car in June 2019, and he continued to use it until it broke down at the very end of January 2020. Because Mr W had use of the car, I think it's fair that he pays for this usage. So Oodle should be allowed to keep the payments he'd made during this period. However, any payments he made after this should be refunded to him.

Mr W paid to have the car repaired in December 2019 and January 2020. These repairs all related to the cooling system, which was faulty when the car was supplied. So, I think Oodle should reimburse him for these costs, as we'll as for the cost of the recovery and engine strip, and for the independent engineer's report he had done.

Mr W has also provided details of a car he rented in February and March 2020. Because I'll be asking Oodle to refund the payments he made at the same time, I don't think it's also fair that Oodle also cover the costs of alternative transportation. Otherwise Mr W will essentially be receiving two payments for the same thing – the vehicle not being usable. So, I won't be asking Oodle to refund the car rental costs.

Finally, I agree with the investigator that Mr W was inconvenienced by having a faulty car. And I think the compensation offered by Oodle is reasonable in the circumstances. So, I won't be asking them to increase this.

My provisional decision is that Oodle should:

- *end the agreement with nothing more to pay;*
- *arrange to collect the vehicle at no cost to Mr W;*
- *remove any adverse information relating to the agreement from Mr W's credit file;*
- *refund the £1,000 deposit Mr W paid;*
- *refund all the payments Mr W made from February 2020 onwards, less £3,000 for the additional damage caused to the engine block after it was removed from the vehicle;*
- *upon receipt of proof of payment made, reimburse Mr W for the cost of the repairs to the cooling system in December 2019 and January 2020, for the cost of recovering the vehicle and stripping the engine; and for the cost of the September 2021 independent engineer's inspection;*
- *apply 8% simple yearly interest on the above refunds, calculated from the date Mr W made the payments to the date of the refund[†]; and*
- *pay Mr W an additional £200 to reflect the trouble and upset he's been caused.*

[†]HM Revenue & Customs requires Oodle to take off tax from this interest. Oodle must give Mr W a certificate showing how much tax they've taken off if he asks for one.

Responses

Mr W said that Oodle had the opportunity to send someone out to inspect the car as soon as his complaint was made, but they didn't do so. And for them to say, two years later, that they have an issue with how the engine block was stored is unacceptable – he only arranged to have this done because of Oodle's lack of action. So, he thought it was unfair that he was "being punished with a £3,000 deduction." He's also said that the engine block remained

under the bonnet of the car, and wasn't left directly open to the elements, as I said was the case in my provisional decision.

Mr W also thought that the £200 compensation wasn't sufficient for two years' worth of trouble and upset, and *"this amount should be ten times what Oodle are offering me."*

Oodle accepted my provisional decision without further comment.

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 W has commented on the location of the engine block, and that I said it had been left exposed to the elements. However, it was the independent engineer Mr W instructed to inspect the car who said, *"the cylinder block has been uncovered and left open to the elements"* and my provisional decision just quoted this. However, whether the engine block was covered or not, both independent engineers agreed that how it was left allowed it to rust. So, I don't think the specific location of the engine block has any relevance, as it doesn't change what happened to it.

I agree that Oodle could've arranged for someone to inspect the vehicle sooner. But the evidence Mr W had initially supplied them didn't indicate that a fault was present when the car was supplied. So, I don't think Oodle acted unreasonably by taking this into consideration when dealing with his complaint, and by not instructing an independent engineer at this stage.

The agreement Mr W signed made it clear that he was responsible for keeping the vehicle in good condition (at his expense) and that he was responsible for any damage outside of fair wear and tear. It's not disputed that the engine block has corroded beyond repair, or that this isn't something that would normally be expected to happen during normal usage. Because of this, and while I accept that Mr W doesn't agree, Oodle are entitled to charge Mr W for the cost of a replacement.

I appreciate that Mr W doesn't think that £200 compensation is sufficient, and he believes this should be £2,000. As I said in my provisional decision, Mr W was inconvenienced by having a faulty car. And he was unable to use the car after 31 January 2020. Mr W also had a short period of time without transportation before he purchased a replacement vehicle. And he's had to continue to pay Oodle while this complaint has been ongoing.

However, as explained in my provisional decision, I'm asking Oodle to refund the payments Mr W has made since the car broke down, plus his deposit and the costs of any repairs he'd had done. And I also explained why I wouldn't be covering the costs of any alternative transportation. Because this compensation covers why Mr W believes the compensation should be increased, I see no compelling reasons to also increase the £200.

So, for these reasons, Mr W's comments don't change my view.

Putting things right

Given the above, Oodle should:

- end the agreement with nothing more to pay;
- arrange to collect the vehicle at no cost to Mr W;
- remove any adverse information relating to the agreement from Mr W's credit file;

- refund the £1,000 deposit Mr W paid;
- refund all the payments Mr W made from February 2020 onwards, less £3,000 for the additional damage caused to the engine block after it was removed from the vehicle;
- upon receipt of proof of payment made, reimburse Mr W for the cost of the repairs to the cooling system in December 2019 and January 2020, for the cost of recovering the vehicle and stripping the engine; and for the cost of the September 2021 independent engineer's inspection;
- apply 8% simple yearly interest on the above refunds, calculated from the date Mr W made the payments to the date of the refund †; and
- pay Mr W an additional £200 to reflect the trouble and upset he's been caused.

†HM Revenue & Customs requires Oodle to take off tax from this interest. Oodle must give Mr W a certificate showing how much tax they've taken off if he asks for one.

My final decision

For the reasons explained above I uphold Mr W's complaint. Oodle Financial Services Limited should follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 8 April 2022.

Andrew Burford
Ombudsman