

The complaint

Mr S is unhappy about the way Creation Consumer Finance Ltd handled his claim under section 75 of the Consumer Credit Act 1974.

What happened

In October 2020 Mr S was supplied with a car and entered into a fixed sum loan agreement with Creation.

When Mr S took delivery of the car, there was no car manual or service history. Mr S contacted the dealer several times to request the service history. The dealer said it was in the car. Unable to resolve things with the dealer, Mr S contacted Creation and raised a claim under section 75.

In response, Creation said it had contacted the broker, who had advised that if there was no physical service history, there would be a digital copy contained on the key. Based on what the broker said, creation rejected Mr S's section 75 claim.

Mr S has had the key checked and found only two services. He's unhappy because the car was advertised for sale with full service history.

Mr S brought his complaint to this service. He thinks he's paid too much for the car given that it doesn't have a full service history. He wants compensation.

Our investigator contacted Creation to request a case file, but Creation didn't respond. So the investigator reached a view based on the available information. The investigator said that the car didn't have a full service history and that 5 services had been missed. The investigator said that the car had been mis-sold and that Creation should pay compensation to Mr S equivalent to the value of 5 missed services, plus compensation for distress and inconvenience.

Creation didn't respond to the view, so I've been asked to make a final 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 certain circumstances, section 75 gives a consumer a right to claim against a supplier of goods or the provider of credit if there's been a breach of contract or a misrepresentation. In order to uphold Mr S's complaint, I would need to be satisfied that there's been a breach of contract or a misrepresentation, and that Creation's response to the claim wasn't fair or reasonable.

Mr S has said that the car was advertised as having a full service history. He's provided the advertisement to show this. Mr S has also provided a copy of the digital read out from the key. There are two services recorded, September 2015 and September 2017. This is the only evidence of the service history, because no service history book was provided with the

car.

The manufacturer recommended service interval for the car is every 10,000 miles or every 12 months, whichever is the sooner. Based on what I've seen, Mr S's car has missed services in 2014,2016,2018. 2019 and 2020.

Mr S has said that if he'd known that car didn't have full service history, he wouldn't have gone ahead with the purchase.

A misrepresentation is an untrue statement of fact which induces the consumer to enter into the contract. In this case, I'm satisfied that the service history was misrepresented, and that the service history was a main factor in Mr S's decision to purchase the car. I'm satisfied that the criteria for section 75 have been met. I don't think Creations response to the claim was reasonable.

Putting things right

Mr S has said that he's happy to keep the car, but he thinks he's paid too much for it given that it doesn't have full service history. I agree that it's likely that the car was advertised for a price which reflected the fact that it had a full service history, and that the absence of a service history makes it likely to have been worth less. I'm of the view that Creation should pay compensation to Mr S for the 5 missed services at £250 per service, plus interest equivalent to the interest being charged under the loan agreement. Creation should also pay compensation to Mr S for the distress and inconvenience caused to him as a result of being mis-sold the car and having to pursue a complaint.

My final decision

My final decision is that I uphold the complaint. Creation Consumer Finance Ltd must:

Pay Mr S £1250 for missed services

Pay interest at 10.9% on the above sum for 54 months

Pay £50 compensation for distress and inconvenience

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

Emma Davy
Ombudsman