

The complaint

Ms S complains PSA Finance UK Limited (PSA) provided her with a car that she believes wasn't of satisfactory quality. She also complains the car was damaged while being repaired.

What happened

In January 2020, Ms S entered into a 48 month personal contract purchase agreement (PCP) with PSA for a new car. The cash price of the car was £22,242, she was required to pay £290 per month with a final optional payment of £8,291.

Ms S said on 23 February 2020 she noticed an issue with the fuel gauge as it wasn't reporting correctly. She said she told the dealership about it and they told her it was just because it was a new car. The issue continued and Ms S said she insisted the dealership look at it. However due to the impact of the Covid-19 pandemic, it couldn't be returned immediately.

The car was eventually returned to the dealership in June 2020 and Ms S was provided with a courtesy car. They confirmed there was a fault with the fuel gauge and they ordered a replacement. There was a delay in receiving the part and in July 2020, Ms S complained to PSA and requested to reject the car. PSA said the delay was outside of their control as it was down to the manufacturer.

The fuel gauge was repaired in August 2020. Once the car was fixed, Ms S returned to collect it and upon doing so she noticed a dent on the rear quarter and bumper. She said this wasn't present before the car went in for repair and she had signed a job card to confirm the same. But according to the dealership, while the car was in for repair they noticed there was damage and they updated the report to reflect that. They said the damage wasn't caused by them, it was already present when the car was brought in by Ms S.

Ms S complained. PSA accepted there was a fault with the fuel gauge and there was a delay in receiving the relevant part but the car had been fixed by the dealership so they wouldn't allow rejection but offered to pay one month's instalment for the inconvenience. In regards to the dent, they said this wasn't grounds to reject the car as it was pre-existing damage but as a gesture of goodwill and without admission of liability the dealership will carry out a repair.

Around September 2020, the dealership said they were willing to repair the dent as a gesture of goodwill. They repaired the bodywork but Ms S said it had been carried out to a poor standard. She said the car was yellow but the paintwork was orange in colour meaning it didn't match the rest of the paintwork. She also said the wheel trim wasn't secure.

Another repair to the bodywork was carried out around October/November 2020 and Ms S was told the car was ready to be collected. Unhappy with the second repair, Ms S said she wasn't willing to accept the return of the car but the dealership insisted it was returned. It was delivered to her home address in December 2020. Ms S said she hasn't driven it since and it's been declared SORN (statutory off road notification). As a result, she's had to find alternative means of transport and this is causing financial strain as she continues to pay the contractual payments.

Unhappy with the situation she complained again to PSA and requested to reject the car. They maintained their position and in addition said in regard to the damage to the car, as it was not a manufacturing defect, they wouldn't allow a rejection and Ms S should discuss matters with the dealership directly. They also said the car's manufacturer had offered to pay two months instalments to recognise the delay in providing the replacement fuel gauge.

Unhappy with their response, Ms S referred the complaint to our service. Our investigator said the car wasn't of satisfactory quality due to the fault with the fuel gauge however they believed PSA had done enough to put this right and there's no evidence the repair wasn't successful. In regard to the bodywork issue, he said there is insufficient evidence of when this occurred and it wouldn't be fair to hold PSA responsible for this as it's down to the dealership.

Ms S disagreed and in summary she said:

- The replaced fuel gauge wasn't an original part so this would void the warranty;
- Since the car was returned, it doesn't start;
- She had the original job card when the car was returned to the dealership which confirmed there was no damage to the car. At a later point, the dealership added that there was damage.

In January 2022, Ms S arranged for the car to be looked at by a third party garage and they found the following:

- A fault with the door locking system – back doors didn't lock and the front doors didn't unlock;
- The car doesn't start at first ignition, it only starts from a boost pack;
- The dashboard shows a gearbox fault and other faults which could be the battery, alternator or ECU;
- Signs of poor body repair to rear quarters but a paint specialist would need to give a more detailed report.

In March 2022, I issued my provisional decision upholding the complaint. I said:

"Faulty fuel gauge

The Consumer Rights Act 2015 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". To be considered "satisfactory", the goods would need to 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 involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage at the time of supply and the car's history.

In this case, Ms S was supplied with a brand new car so it would be reasonable to expect the quality of it to be higher than a more well used one and it would be free from defects and for a significant amount of time.

Based on evidence, it's clear there was a fault with the car's fuel gauge, this isn't in dispute. I've already set out the expectations of the quality of a new car. In this case, I wouldn't expect one that had travelled so few miles and so soon after supply to experience such an issue. I'm satisfied it's most likely the issue was an inherent manufacturing fault and it was present or developing at supply. Therefore I find the car wasn't of satisfactory quality when supplied meaning there was a breach of contract.

Where this happens, and it's outside the first 30 days of supply the relevant law allows one opportunity to repair and I would expect this to be at no cost to Ms S which is what happened here. Once the Covid-19 restrictions started to ease, the car was returned to the dealership in June 2020 and a repair was carried out under warranty at no cost to Ms S.

I understand there was a delay of over two months for the car to be repaired. The dealership said this is because there were delays in acquiring the relevant part from the manufacturer. The CRA says repairs must be carried out within a reasonable amount of time without significant inconvenience for the consumer. In this case I consider two months to be significant. But given the wider context of Covid and the delays by the manufacturer, I appreciate the reasons for the delay but I also understand Ms S' frustration. Once the car part was received in August 2020, the dealership fixed the car and there is no evidence to suggest they could've fixed it earlier.

The car's manufacturer offered to pay two months' instalment in recognition of the delay to provide the relevant part. PSA advised Ms S if she wanted to accept that offer, she should contact the manufacturer directly. It's unclear whether Ms S accepted the same.

While the car was at the dealership waiting to be repaired, I understand Ms S was kept mobile with a courtesy car. I appreciate the initial car provided was a manual and Ms S' car was an automatic and she's explained due to health reasons she needed an automatic car. Given these circumstances, I can understand why she wasn't happy about this. However PSA said she was later provided with an automatic car after the initial three weeks. In light of the same, I'm satisfied they done enough to keep her mobile and in a suitable car for her needs.

Damage to bodywork

It's in dispute as to who caused the dent to the car. Ms S believes it was caused by the dealership however they said they noticed it while it was waiting to be repaired and concluded it must have been present when the car was returned to them by Ms S.

I've seen a copy of the job card in June 2020 and there is a section concerning visual inspection whereby it can be noted if there are any existing faults such as dents, scratches or chips to the car. I note in the event damage is identified there is a box for the consumer to sign to acknowledge such damage. In this case, the box is not signed by Ms S.

Ms S said there were no faults when she brought the car in for repair and nothing was noted on the job card however the dealership later amended it to say there was a dent. If there was pre-existing damage to the car when it was brought in, I believe it would've been reasonable for the dealership to have noticed this, marked it on the job card and required Ms S to sign for it but there is no evidence of this. On balance I think it's more likely than not the damage to the bodywork was caused by the dealership during the months it was in their care.

PSA said they can't be held responsible for the actions of the dealership however I disagree, I believe it's reasonable to say the dealership was acting as their agent meaning they are responsible for their actions. PSA may say the dealership wasn't their agent because they didn't instruct them to carry out the repair and they were only told about the fuel gauge fault in July 2020 which was after the car had already been returned to the dealership in June 2020. I accept this and it's likely Ms S wasn't aware she could've contacted PSA sooner. However even if she had, I believe it's likely they would've advised her to contact the dealership anyway for a repair meaning she would've been in the same position had she contacted them earlier.

For the above reasons, I find there was a fault with the fuel gauge at supply, the dealership acting as an agent of PSA carried out a repair and caused further damage to the car while it was in their care. Therefore PSA are liable for this.

Although the dealership disputed the damage was caused by them, they agreed to carry out a repair as a gesture of goodwill. They weren't happy with the first attempt and repaired it a second time. However despite the repair attempts, Ms S maintains it wasn't to a satisfactory standard especially in regards to the paintwork and she has provided pictures of the same. Additionally, the report from the third party garage in January 2022 comments there are signs of a poor body repair and a paint specialist would be able to give a more detailed report. I have to bear in mind this was a brand new car and the paintwork is a unique colour (yellow) therefore it may be difficult to achieve the exact colour and to the same standard of when it was manufactured. However I don't believe it's fair for Ms S to be returned a brand new car, which costs over £22,000, with such an issue that was no fault of her own especially as it's likely to impact the value of the car.

Despite the two repair attempts by the dealership of whom I note are manufacturer approved, I'm not persuaded the repair to the bodywork was to a satisfactory quality. Ms S doesn't want a further repair and given what has happened so far I believe it's reasonable for PSA to allow the rejection of the car.

To put things right, they should end the agreement and collect the car at no cost to Ms S. They should also refund the £3,000 deposit. While I appreciate there was a fuel gauge fault and the car didn't perform as expected, Ms S was still able to drive it up until June 2020 and she covered over 2,900 miles so it's fair she pays to reflect that use. However I believe it's reasonable for PSA to refund the monthly payments from November 2020 onwards as this is when the car was ready to be collected following the repairs to the fuel gauge and bodywork. At the time of writing this decision, it's unclear whether Ms S has continued to pay the monthly payments. In the event she hasn't and the account is in arrears, I believe it's fair for the above refunds to be offset against any money Ms S owes to PSA.

Ms S hasn't provided detail about any other costs she has incurred as a result of this situation however if there are any, I ask her to provide evidence of the same. I will take it into consideration and decide whether or not I believe it would be responsible for PSA to cover such expenses.

As mentioned above, PSA has already offered to pay one month's instalment due to the inconvenience caused due to the delay in the repair and in the circumstances I believe this is a fair amount. However given the trouble and upset caused by the further damage caused by the dealership I believe PSA should also pay an additional £150 compensation".

Response to the provisional decision

Ms S accepted the findings. She highlighted her financial losses including the guaranteed asset protection (GAP) insurance and the cost of a private registration plates which she would either like returned or reimbursed. Ms S has provided evidence of both costs. She has also commented there were other out of pocket expenses but she doesn't have the relevant evidence. She stressed she had to rely on family and friends for transport and she eventually bought another car so she could travel to and from her medical appointments. PSA didn't provide any further comments.

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 thank Ms S for her comments and I appreciate this situation has caused great upset especially as she bought the car in the belief that she wouldn't have any issues with a new one so I can understand her disappointment about what's happened.

Overall I agree that Ms S has had little benefit from the GAP insurance as she stopped driving the car when it was returned to her in November 2020 and she will be required to pay for the removal or transfer of the private registration. Given what's happened, I believe it's fair for PSA to refund these costs incurred. PSA should provide a pro rata refund of the insurance policy calculated from November 2020 and refund the cost of the removal / transferring of the private registration plates subject to evidence from Ms S.

With the addition of the award of financial losses as outlined above, I haven't been provided with any further information to change my decision overall I still consider my findings to be fair and reasonable in the circumstances. Therefore, my final decision is the same for the reasons as set out in my provisional decision.

My final decision

For the reasons set out above, I've decided to uphold Ms S' complaint.

To put things right, PSA Finance UK Limited must:

- End the agreement with nothing further for Ms S to pay;
- Collect the car at no cost to Ms S;
- Refund the deposit*
- Refund the contractual payments from November 2020 onwards*;
- Provide a pro rata refund for the GAP insurance policy calculated from November 2020*
- Refund the cost of the removal / transfer of the private registration plate (subject to proof being provided)*;
- If the account is in arrears the above refunds can be used to offset what is owed by Ms S;
- Remove any adverse information about this agreement from Ms S' credit file;
- Pay the equivalent of one month's instalment as compensation for the delay in repair (if not paid already)
- Pay an additional £150 as compensation to Ms S for the trouble and upset caused due to the further damage caused.

*PSA Finance UK should also pay 8% simple interest per year on all the above refunds calculated from the date of payment up to the date of settlement.

If PSA Finance UK considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Ms S how much it's taken off. It should also give Ms S 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 Ms S to accept or reject my decision before 3 May 2022.

Simona Charles
Ombudsman