

The complaint

Mr L and Miss S complain about the quality of a car they acquired through a hire purchase agreement financed by Go Car Credit Limited (GCC).

Mr L is the main party dealing with the complaint, so for ease of reference, I'll refer to him directly throughout my decision.

What happened

In May 2021 Mr L acquired a used car through a hire purchase agreement.

In June 2021 Mr L raised a number of issues with the vehicle to GCC. He said the USB port wasn't working, the clutch was riding too high, there was a tracking issue with tyre wear, the engine cover was missing, the passenger door wasn't aligned, and he thought there was evidence that the car had been in an accident prior to it being supplied to him.

Mr L returned the vehicle to the supplying dealership, he thought this was for an investigation, but repairs were conducted on the vehicle. Mr L was provided with a courtesy car during the repairs.

Mr L complained to GCC. He said some of the repairs had been completed, but some faults remained.

GCC asked Mr L for a written report confirming what was wrong with the vehicle. Mr L provided pictures of the underside of the vehicle to GCC which he believed showed damage and faults.

GCC arranged for an inspection of the vehicle to be completed, but there were problems with this being scheduled, and so it never went ahead.

GCC sent Mr L their final response to his complaint in July 2021. They said there were faults that made the car of unsatisfactory quality at the time it was supplied to Mr L, but that these had been repaired. They said there wasn't any evidence that there were any outstanding faults with the vehicle or that any of the repairs had failed. They offered Mr L £250 compensation for the distress and inconvenience caused by repairs being required so soon after acquiring the vehicle.

Mr L explained to GCC that he was struggling financially. And so, in July 2021 they offered to take the vehicle back and unwind the agreement, refund Mr L's deposit, pay the £250 compensation offered, and refund Mr L's monthly payments made to date.

In July 2021 Mr L complained again to GCC. He said they'd told him his car wasn't insured and they'd provided incorrect information about an attempt to call him on 23 July 2021. GCC sent Mr L their final response to this complaint in August 2021. They said they'd checked an incorrect number plate when checking his insurance, and that the agent that told him they hadn't tried to call him had provided incorrect information. They offered Mr L £100 compensation for the poor service.

Unhappy with GCC's response and offer, Mr L brought his complaint to us for investigation. He felt his part exchange vehicle was undervalued, and so the refund of the deposit wasn't a fair amount. Mr L asked for £1500 compensation from the dealership and from GCC, along with rejection of the vehicle.

The supplying dealership agreed to have the vehicle inspected in August 2021. Mr L paid for a location with a ramp for this inspection to take place. The report said that there were faults with the vehicle, and its safety had been compromised as the bumper reinforcing bar had been reused and was distorted.

GCC said they'd already agreed to a rejection of the vehicle prior to this report being carried out. They said they didn't ask for this report, and it was arranged between the supplying dealership and Mr L without their involvement. They say the complaint was being protracted because Mr L won't accept their proposed resolution.

Our investigator gave his view that he thought the car was of unsatisfactory quality at the time it was supplied to Mr L, and so he should be able to reject it. He recommended that the agreement was ended, and the car collected from Mr L with nothing further to pay and that Mr L's deposit was refunded. He thought GCC should pay Mr L £350 in compensation for the distress and inconvenience caused, and they should pay £200 compensation for the poor service Mr L had received.

Our investigator said that Mr L's concerns with the valuation of his part exchange would need to be handled by the supplying dealership and weren't something we could consider in the complaint against GCC, as this was agreed prior to entering the finance agreement.

Our investigator said that Mr L had continued to use the vehicle, despite concerns over its safety. So, they thought GCC should be able to retain 25% of Mr L's monthly payments to reflect this use, and they should refund the other 75%.

Mr L didn't agree. He said he'd be financially affected by rejecting the vehicle as he'd have to wait for refunds and the agreement to be removed from his credit file. He also felt GCC would profit from having the vehicle back and selling it again without fixing the issues. Mr L said he would've liked to explore the option of the vehicle being repaired, and he'd like all of his payments made to date refunded.

GCC accepted most of our investigator's recommendations. But they said Mr L had missed a recent payment on his agreement and was still continuing to use the vehicle. So, they thought they should be able to retain all contractual payments from September 2021 onwards.

GCC also disagreed with the increase in compensation for the service element of the complaint. They said incorrect information had been given to Mr L, but this was resolved quickly, and so they thought their offer of £100 was fair.

Mr L raised his concerns about the vehicle with trading standards, who arranged for an inspection of the vehicle in October 2021. The report concluded that the vehicle had been subject to previous light accident damage and poor and inadequate repairs were carried out. It also concluded that there was minor damage to the reinforcement bar and frame, but the integrity of these components had not been significantly compromised. It says that these issues should have been identified by way of a recognised motor trade quality and safety inspection.

Mr L said in order to settle the complaint, he'd like to reject the vehicle, have his full payments and deposit refunded plus interest, £2000 compensation and a refund of his travel costs incurred when taking the vehicle to the dealership to have the issue resolved.

As an agreement couldn't be reached, the case was passed to me for a decision.

I issued a provisional decision on this complaint in April 2022 recommending that it was upheld. I made the following provisional findings:

There has been a large amount of evidence provided by all parties in this complaint, and I'd like to reassure the parties that I've considered and read everything they've said and sent us. But, in line with this service's role as a quick and informal body I'll be focusing on the crux of Mr L's complaint in deciding what's fair and reasonable here.

At the outset I think it is useful to reflect on the role of this service. This service isn't intended to regulate or punish businesses for their conduct. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

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. GCC as the supplier of the goods under this type of agreement is responsible for a complaint about their quality.

Quality of the goods

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 other relevant factors. Those factors, in the case of a car purchase, will include things like the age and mileage of the car at the time of sale, and the car's history.

The quality of the goods includes their general condition and other things like their fitness for purpose, appearance and finish, safety and durability.

Here, the car was acquired used with a cash price of around £9,000. It was around four years old and had travelled approximately 46,000 miles at the time of supply.

The reports conducted in August and October 2021 agree on the fact that Mr L's vehicle has been in a previous accident. They don't agree on whether that accident has compromised the safety of Mr L's vehicle.

One report concludes that the bumper reinforcing bar and bracket require replacement as the vehicle safety has been compromised. The other report concludes that the condition and integrity of these components has not been compromised, and so the opinion that the vehicle is unsafe or unroadworthy is not supported.

Having reviewed both reports, I'm not persuaded by one over the other. Both engineers completed detailed inspections of Mr L's vehicle, and the engineers have comparable experience in the relevant industry. Both reports do agree that the components are important safety components, designed to crush or crumple to absorb energy or impact. Rather than

one engineer being wrong about their conclusions, I think it's difficult to judge whether or not the safety of the vehicle has been compromised.

One engineer has noted that the damage should've been identified by way of a recognised quality and safety inspection prior to supply of the vehicle.

Both reports agree that the earlier faults reported by Mr L, and that GCC said were faults that made the vehicle of unsatisfactory quality, but had been fixed by the dealership, are also still present. These include the USB port being unusable and the mouldings and trims being insecure.

All things considered; given the faults that were present at the point of sale, and the damage to the bumper reinforcing bar, I'm satisfied that the vehicle was of unsatisfactory quality at the time it was supplied to Mr L. Having made that finding I need to decide what, if anything, GCC should do to put things right.

The Consumer Rights Act 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.

Mr L returned his vehicle to the dealership, where an inspection was completed. Some work was carried out, but it's clear from the later engineer inspections that the faults weren't fixed. So, as GCC have had an opportunity to repair the vehicle and it hasn't been returned to a satisfactory condition, I think Mr L should be entitled to his final right to reject the vehicle. This means that the car is collected from Mr L, the finance agreement is brought to an end, and Mr L has his £999.00 deposit refunded (plus interest). The agreement and any adverse information should be removed from Mr L and Miss S's credit file.

The deposit

Mr L has said that his previous vehicle used for the deposit, was undervalued. This transaction took place prior to Mr L entering the agreement with GCC, so I won't be considering this in this complaint about GCC. Mr L may want to raise these concerns with the dealership directly.

Appropriate redress

Mr L has asked for all of his monthly payments to be returned because of the faults. Our investigator recommended that GCC refund 75% of Mr L's payments to reflect the impaired use of the vehicle, but they could retain the other 25% as Mr L had continued to use the vehicle.

I appreciate that Mr L was concerned about using the vehicle, as he thought its safety had been compromised. As I've set out above, the two reports provided don't agree on this matter. I don't doubt that Mr L has had some impaired use of the vehicle, as he was concerned about driving his family in the car. However, he has continued to use the vehicle despite these concerns. He'd travelled around 3,000 miles in the vehicle in the three months prior to the first inspection, and around 2,000 miles in the two months leading up to the second inspection.

This is what I'd expect to see for average use of a vehicle, so I don't agree that Mr L's use of this vehicle was severely impacted. Even after the first report said the safety of the vehicle was compromised, Mr L continued to use it as he had before.

So, I think it's fair that Mr L pay for the use he's had of the vehicle. Whilst I understand the concern over the vehicle's safety, nothing occurred to put Mr L or his family in danger. And whether the vehicle was ever unsafe is disputed by the two inspections. I can't award redress for something that hasn't happened and might never happen.

I think the monthly payments agreed between Mr L and GCC are a starting point for a reflection of a fair price for the use of the vehicle. I accept that Mr L was concerned to use the vehicle, and I don't think this concern was entirely unfounded. There were also other faults with the vehicle, and Mr L was unable to use some of its features, such as the USB port. So, I find that GCC should refund 25% of all of Mr L's monthly payments to reflect the impaired use due to the faults.

Our investigator recommended that GCC pay Mr L £350 compensation for the distress and inconvenience caused by supplying a faulty vehicle, and £200 compensation for the poor service they provided to Mr L.

Mr L would like £2000 compensation. GCC agreed to pay £350 for the distress and inconvenience, but felt that their original offer of £100 compensation was reflective of the impact their poor service had on Mr L.

Mr L has been put to inconvenience in taking his vehicle to the dealership in order for repairs to be completed, which failed. Mr L has also had to go to some effort to prove that there are faults with the vehicle when it seems these should reasonably have been identified by the dealership when it was taken for inspection. I think £350 compensation fairly reflects the distress and inconvenience caused to Mr L here.

GCC offered £100 compensation for incorrectly telling Mr L that his car was uninsured, and for some incorrect information given around attempts to call him. Whilst these errors were corrected quickly, I think they did cause distress to Mr L. He was left concerned that his vehicle had no insurance, and Miss S had to go to the effort of contacting their insurers to make sure of this fact. I think £200 fairly reflects the distress and inconvenience caused by GCC's poor service.

Our investigator recommended that GCC refund any fees Mr L faces for cancelling his tax and insurance on this vehicle. Mr L wouldn't need to cancel these items if it weren't for returning the faulty car. So, I think it's fair that GCC reimburse these costs should Mr L incur them. Mr L will need to provide evidence of these costs to GCC.

Mr L has asked for a refund of his travel costs when he's had to take the vehicle to the dealership for repairs. I can see that Mr L was provided with a courtesy car when the car was taken to the dealership, so as he was kept mobile, GCC don't need to do anything more here.

Neither Mr L and Miss S, nor GCC responded to my provisional 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.

As neither party has raised any new arguments, or sent me new information to consider, for the same reasoning that I set out in my provisional decision, I've decided to uphold this complaint.

My final decision

My final decision is that I uphold this complaint and I require Go Car Credit Limited to:

- End the agreement and collect the car at no further cost to Mr L & Miss S
- Remove the agreement and any adverse information from Mr L and Miss S's credit file.
- Refund Mr L and Miss S's deposit of £999.00 plus 8% simple yearly interest, calculated from the date of payment to the date of settlement
- Refund 25% of Mr L and Miss S's monthly payments plus 8% simple yearly interest, calculated from the date of payment to the date of settlement
- Pay Mr L and Miss S a total of £550 compensation to reflect the distress and inconvenience caused
- Refund any fees Mr L and Miss S face for cancelling the tax and insurance for this vehicle. Mr L and Miss S will need to provide evidence of these costs to GCC.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L and Miss S to accept or reject my decision before 16 June 2022.

Zoe Merriman
Ombudsman