

## **The complaint**

Mrs H 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.

Mrs H 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 Consumer Rights Act (2015) is the relevant legislation, it 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 Mrs H. The car here was about four years old and had already completed about 46,000 miles. So, I think a reasonable person would expect some wear and tear to be present, but I don't think they'd expect the engine to need replacing after only 60,000 miles.

The relevant legislation says that when we consider whether a car has been of satisfactory quality we should also consider whether it has been durable. A franchised dealership and a specialist garage have both explained that this failure should be considered premature. Mrs H has provided evidence to show she has serviced the car to the manufacturer's recommendations and in those circumstances I think there is evidence the engine should

have been more durable and the car was therefore of unsatisfactory quality when it was supplied.

### **Putting things right**

The relevant legislation allows Creation one opportunity to repair the car so Creation should collect the car and repair it at no cost to Mrs H.

Mrs H has had to pay to have the timing belt and turbo replaced and she wouldn't have had to do that if the car was of satisfactory quality. So, Creation should refund the cost of those repairs (£2,200 inclusive of VAT) and add 8% simple interest per year. Mrs H has already provided a copy of that receipt to this service. They should add interest to that refund as Mrs H has been deprived of the money.

Mrs H broke down on 14 October 2021 and hasn't used the car since. It's fair for Creation to retain any monthly finance instalments she paid up to that point in respect of the fair use Mrs H had from the car. But Creation should refund any subsequent payments Mrs H has made to her finance agreement and until the car is repaired. They should add interest to that refund as Mrs H has been deprived of the money.

I can see Mrs H has been inconvenienced by these issues. She's had to make alternative travel arrangements to ensure her children got to school and she's had to have the car recovered. She's also had to escalate her complaint to this service when I think it could have been resolved earlier. In those circumstances Creation should pay her £300 to compensate her for the distress and inconvenience she's experienced.

### **My final decision**

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

- Repair the car at no cost to Mrs H.
- Reimburse Mrs H for the cost of turbo charger and timing chain replacement (£2,200), as these costs are a direct result of the car's lack of conformity.
- Reimburse the monthly repayments made to cover the period between 14 October 2021 until the car is repaired, in respect of loss of use.
- Pay 8% simple yearly interest on all refunded amounts from the date of payment until the date of settlement.
- Compensate £300 for the trouble and upset caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 28 June 2022.

Phillip McMahon  
**Ombudsman**