

The complaint

Mr B complains that a car that was supplied to him under a hire purchase agreement with Creation Consumer Finance Limited wasn't of satisfactory quality.

What happened

A used car was supplied to Mr B under a hire purchase agreement with Creation Consumer Finance that he signed in March 2021. He complained to the dealer about some issues with the car and the dealer repaired the car in April, May and June 2021, including replacing a fuel injector. There were still issues with the car in September 2021 but the dealer said that the warranty had expired so Mr B paid a garage to repair the car. It recommended that the injectors should be tested as the car may need new injectors. Mr B complained to Creation Consumer Finance about the car in November 2021 but it rejected his claim because it said that he'd paid for repairs that weren't authorised by the dealer so it couldn't inspect the car to establish that the issues were present at the point of sale.

Mr B wasn't satisfied with its response so complained to this service. Our investigator recommended that his complaint should be upheld. He said that it seemed likely that the car was of unsatisfactory quality at the point of supply and he recommended that Creation Consumer Finance should: repair the fuel injectors on the car; refund the amounts that Mr B had paid for repairs to the car; and pay him £150 for any distress or inconvenience that he'd been caused.

Creation Consumer Finance said that it had sent our investigator's findings to the dealer and would respond with the dealer's opinion. No further response has been received and Mr B says that the dealer has stopped trading. He also says that the problems with the car continue and he's concerned that he may be doing more damage while driving it.

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.

Having done so, I agree with the outcome recommended by our investigator for these reasons:

- Creation Consumer Finance, as the supplier of the car, was responsible for ensuring that it was of satisfactory quality when it was supplied to Mr B - whether or not it was of satisfactory quality at that time will depend on a number of factors, including the age and mileage of the car and the price that was paid for it;
- the car that was supplied to Mr B was about four years old, had been driven for 52,378 miles and had a price of £10,995;
- satisfactory quality also covers durability which means that the components within the car must be durable and last a reasonable amount of time – but exactly how long that time is will also depend on a number of factors;

- the dealer's work history report shows that Mr B returned the car to the dealer in April 2021 – about six weeks after it was supplied to him – because it was shuddering when starting so it replaced the fuel filter and put in an injector additive and it said that the car would need a new injector if that didn't fix the problem;
- the work history report shows that an injector was replaced in May 2021 but the car was still juddering between second and third gears so an injector cleaner was added in June 2021;
- Mr B returned the car to the dealer in September 2021 because he was still having issues with it but the dealer said that the warranty had ended;
- Mr B took the car to another garage and it replaced the battery, the glow plugs and the alternator to try to fix the mis-fire and juddering issues but they continued – the total charge for the repairs by the garage in September and October 2021 was £999.37;
- the garage recommended that the injectors should be tested as the car might need new injectors and Mr B then complained to Creation Consumer Finance;
- it's clear from the dealer's work history report that there was an issue with the car juddering soon after it was supplied to Mr B and the dealer replaced an injector but the issues continued - Mr B says that there are still problems with the car and a garage has recommended that the injectors should be tested as they might need to be replaced;
- I consider that the issues that Mr B has had with the car cause it not to have been of satisfactory quality when it was supplied to him;
- the dealer has repaired the car but the repairs haven't dealt with the issues so I find that it would be fair and reasonable for Creation Consumer Finance to arrange and pay for the issues that are causing the car to judder and mis-fire to be repaired;
- when the dealer's repairs hadn't been successful and it said that the warranty had expired, I consider that it was fair and reasonable for Mr B to take the car to another garage and I also consider that it was fair and reasonable for it to replace the battery, the glow plugs and the alternator to try to deal with the issues with the car;
- Creation Consumer Finance says that Mr B paid for repairs that weren't authorised by the dealer so it couldn't inspect the car to establish that the issues were present at the point of sale – but the dealer's work history report shows that the car was juddering and mis-firing so I consider that there's enough evidence to show that it's more likely than not that those issues were present when the car was supplied to Mr B;
- I find that it would be fair and reasonable for Creation Consumer Finance to also pay £999.37 to Mr B to reimburse him for the payments that he made to the garage for it to repair the car – and I consider that it should also pay interest on those payments;
- Mr B has been able to use the car and the garage's invoice records its mileage as 59,193 in October 2021 so the car had been driven for almost 7,000 between March and October 2021 – and I'm not persuaded that it would be fair or reasonable in these circumstances for me to require Creation Consumer Finance to refund to Mr B any of the payments that he's made under the hire purchase agreement; and
- these events have clearly caused distress and inconvenience for Mr B and I find that it would also be fair and reasonable for Creation Consumer Finance to pay him £150 to compensate him for that distress and inconvenience.

Putting things right

I find that it would be fair and reasonable for Creation Consumer Finance to take the actions described above and as set out below.

My final decision

My decision is that I uphold Mr B's complaint and I order Creation Consumer Finance Limited to:

1. Arrange and pay for the issues that are causing the car to judder and mis-fire to be repaired.
2. Pay £999.37 to Mr B to reimburse him for the payments that he made to the garage for it to repair the car.
3. Pay interest on those payments at an annual rate of 8% simple from the date of each payment to the date of settlement.
4. Pay £150 to Mr B to compensate him for the distress and inconvenience that he's been caused.

HM Revenue & Customs requires Creation Consumer Finance to deduct tax from the interest payment referred to at 3 above. Creation Consumer Finance must give Mr B a certificate showing how much tax it's deducted if he asks it for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 3 November 2022.

Jarrold Hastings
Ombudsman