

The complaint

Mr M complains about the quality of a used car that was supplied through a hire purchase agreement with Oodle Financial Services Limited trading as Oodle Car Finance (OFSL).

What happened

In January 2022 Mr M acquired a used car through a hire purchase agreement with OFSL. The car was registered in March 2017, which means it was about five years old, and had travelled 41,860 miles at the time of supply. The purchase price of the car was £21,000. Mr M part exchanged a vehicle which had some outstanding finance on it, he also paid a cash deposit of £1,000 which meant that the total amount financed on this agreement was £20,000 payable over 60 months.

Mr M said that when he collected the car from the dealer, he noticed scratches on the wheel and bumper which he raised with the dealer and accepted a set of car mats to the value of £200 as a goodwill gesture. Mr M also explained that he had to have the locking wheel nut replaced which cost him £88. However, Mr S says that he also noticed the headlights and front grill weren't aligned correctly. Mr M brought the car to a mechanic who noted the following issues:

water ingress to both front headlamps, nearside headlamp does not fit in correct position with wing and bumper, new panels, fan and housing fitted and overspray of paint on various areas under bonnet

Mr M said he believed the car had suffered damaged which the dealer hadn't told him about.

Mr M said he accepted the goodwill gesture for the scratches and not for the other issues identified. Mr M complained to OFSL and provided them with the list of issues he received from the mechanic. Mr M said OFSL arranged an independent inspection of the car and was told that they'd provisionally agreed to reject the car and have it returned to the dealer.

Mr M said the whole situation has left him feeling stressed, as he doesn't feel safe driving the car and has lost out financially from the inspections and repairs to the car.

In March 2022 OFSL provided Mr M with their final response to his complaint. OFSL didn't uphold the complaint. They confirmed Mr M complained in January 2022 about the issues with his car and had provided them with evidence of the problem.

They confirmed that they arranged for the car to be independently inspected in February 2022. They said whilst the report advised the car was fit for purpose it also highlighted issues with the car's headlight and window operation.

OFSL said they attempted to negotiate a rejection with the dealer, but the dealer said the price had been reduced due to some issues. OFSL concluded that as a pre-sale inspection of the car hadn't identified any issues, and a reduction in price was offered due to its condition, a rejection wouldn't be reasonable as they believe the issues were brought to Mr M's attention at the point of sale.

Unhappy with their decision, in March 2022 Mr M brought his complaint to this service for investigation. In April 2022 OFSL advised our investigator that they stood by their decision not to uphold the complaint but offered to make a contribution towards the repair for the headlamps and window operation.

Mr M also advised our investigator that he'd arranged a further inspection of the car and provided a copy of the findings which I've set out below:

- 2 run flat tyres and 2 none run flat tyres fitted
- N/S front door damaged (dent repaired)
- N/S/F headlamp poor fitment
- Poor bonnet alignment
- Front bumper damage underside
- Overspray off both front inner wings
- O/S front window fault
- Noisy front shocks
- Engine misfire

Following the inspection, Mr M provided us with evidence that he'd had the engine misfire and window operation repaired by a mechanic.

Our investigator gave their view that OFSL hadn't acted fairly in the circumstances, however as Mr M had a successful repair carried out on the issues he complained about, a rejection of the car wouldn't be fair in the circumstances. So, our investigator recommended that OFSL reimburse to Mr M the costs for the repairs to the window operation and the replacement locking wheel nut, and to pay for the repairs to the headlamp. Our investigator also recommended OFSL pay Mr M £150 compensation for the distress and inconvenience caused.

Unhappy with our investigator's view, Mr M felt he should be allowed to reject the car as there were issues outstanding that were identified on the mechanic's report, so he asked that his complaint be referred to an ombudsman for 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 considering what is fair and reasonable, I've thought about all the evidence and information provided afresh and the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

The agreement in this case is a regulated hire purchase agreement. As such, this service is able to consider complaints relating to it. OFSL is also the supplier of the goods under this agreement and is responsible for a complaint about their quality.

The Consumer Rights Act 2015 (CRA) is relevant in this case. It says that under a contract to supply goods, there is an implied term that "*the quality of the goods is satisfactory, fit for purpose and as described*". To be considered as satisfactory, the CRA says the goods need to meet the standard that a reasonable person would consider satisfactory, considering any description of the goods, the price and all the other relevant circumstances.

So, it seems likely that in a case involving a car, the other relevant circumstances a court would consider might include things like the age and mileage at the time of sale and the vehicle's history.

My starting point is that OFSL supplied Mr M with a used car that had travelled 41,860 miles. With this in mind, I think it's fair to say that a reasonable person would expect the level of quality to be less than that of a brand-new car with lower mileage; and that there may be signs of wear and tear due to its usage. Having said that, the car was priced at £21,000 which isn't insignificant. So, I think it is fair to say that a reasonable person would expect it could be used free from any major issues for a reasonable period of time.

From the information provided it's clear to me that there was a fault with the car. This is apparent from the findings of the independent inspection report arranged by OFSL and the letter from the mechanic confirming the issues with the window operation and the misaligned headlamps. OFSL have also acknowledged in their final response that issues existed but considered them to be minor and that a rejection of the car would be disproportionate.

The CRA says that the quality of goods include their state and condition and '*freedom from minor defects*'. So, as the issues have been confirmed by more than one expert and neither party disputes that there are issues with the car, and considering Mr M reported the issues within a month of supply, I'm satisfied that the car was not of satisfactory quality when it was supplied to Mr M.

OFSL system notes have recorded that Mr M complained about the following:

- Wheels need refurbishing
- Scratches on bumper
- Drivers window not fully closing

The notes also state that Mr M raised concerns about the car having different features than what was advertised, as well as feeling pressured into the sale. However, I haven't looked into these concerns because I've seen no evidence that Mr M had taken them up with OFSL or that OFSL has commented on them in their final response. Even had I looked further into them I've not been provided with any evidence to suggest that the car was not as advertised or that Mr M was pressured into the sale.

Mr M confirmed that he accepted a £200 goodwill price reduction for the scratches and the damage to the bumper. Considering the age and mileage of the car, I'm satisfied that it's reasonable to expect the car wouldn't be supplied with the same quality as if it were new, and without seeing evidence of the extent of the scratches or wheel damage I think the goodwill offer was likely to be fair in the circumstances, and in particular Mr M hasn't disputed the offer made.

The independent inspection report arranged by OFSL, identified issues that would benefit from repair which OFSL acknowledged and later offered to make a contribution towards. These were the window operation and the headlamp alignment. It also confirmed there was fogging in the headlamp.

On the complaint form provided to OFSL Mr M said he believed the car was subject to a previous accident. However, the report confirmed there to be no evidence of impact damage affecting the cars structural integrity.

The report commented on the overspray and the engine bay and the specification of the tyres which it says Mr M raised at the time of inspection, however it confirmed there were no issues with these areas. The independent inspection arranged by OFSL was carried out by a professional vehicle inspection specialist. So, I've no reason to doubt their expertise and so I'm satisfied their findings are a true representation of the condition of the car.

And in consideration of the evidence provided I'm satisfied that the outstanding issues following the inspection were:

- The fogging and misalignment of the headlamps and the failing window operation.

Mr M provided us with evidence that he'd had the window operation repaired by his third-party mechanic, and from what I've seen I've been given no reason to suggest that those repairs weren't successful.

Mr M also provided us with evidence that he had to pay for a replacement wheel locking nut which hadn't been provided with the car.

So, with all things considered, I'm satisfied that the issues raised by Mr M in his complaint besides the issue with the headlamp have all been addressed. They've either been successfully repaired or resolved through an offer of goodwill which I've considered to be reasonable.

Under the CRA if goods are not of satisfactory quality they do not conform to the contract. Section 19 of the CRA sets out certain remedies available to the consumer for goods that do not conform, which includes the right to repair or replacement. So, in relation to the headlamp I'll be instructing OFSL to pay for those repairs.

I acknowledge that Mr M asked for a rejection of the car soon after acquiring it, however in the circumstances of this complaint I find the fairest outcome is to instruct OFSL to reimburse Mr M for any costs he's incurred as a result of the issues identified which I've considered were present at the point of supply, and to pay for the repair of the issues with the headlamp. I consider this to be in line with the CRA and so I won't be asking OFSL to facilitate a rejection of the car.

Putting things right

Mr M has provided us with evidence that he paid for the repair to the operation of the window and the wheel locking nut. So, I'll be instructing OFSL to reimburse these costs to Mr M. From the invoices provided, Mr M paid £125 for the window repair and £34.65 for the locking wheel nut set. However, as the issues with the headlamp is outstanding, I'll be instructing OFSL to pay for these repairs.

I acknowledged the inconvenience Mr M would have experienced having to arrange for the repairs, and having to sort things out, so I'm in agreement with our investigator that £150 compensation is fair in the circumstances. The car was always driveable and fit for purpose as confirmed by the inspection report so I'm satisfied that a misaligned headlamp and faulty window wouldn't impact the driving experience to the extent of requiring further compensation.

My final decision

Having thought about everything above along with what is fair and reasonable in the

circumstances I uphold this complaint and instruct Oodle Financial Services Limited trading as Oodle Car Finance to:

- Reimburse to Mr M the cost of the wheel locking nut and the repair to the window operation and pay 8% simple interest from the date of payment until the date of settlement
- Pay to repair the fogging and misalignment of the headlamps
- Pay Mr M £150 in compensation for the distress or inconvenience caused

If Oodle Financial Services Limited trading as Oodle Car Finance considers that it's required by HM Revenue & Customs to withhold income tax from the interest part of my award, it should tell Mr M how much it's taken off. It should also give Mr M a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 20 October 2022.

Benjamin John
Ombudsman