

## **The complaint**

Mr B complains about the quality of a car he has been financing through an agreement with Unity Auto Finance Ltd ("Unity").

## **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 Mr B, but I agree with the investigator's opinion.

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.

Mr B acquired his 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 that the car should have been of satisfactory quality when supplied. If it wasn't then Unity, 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 Mr B. The car here was nearly seven years old and had already completed about 53,000 miles. So, I think a reasonable person would expect there to be some wear and tear present.

The relevant legislation explains that if the fault occurs within the first six months we are to assume it was present at the point of supply, when Unity were responsible for the car's quality, unless they can demonstrate otherwise.

Within the first six months Mr B complained about the brakes, an "*SD not present*" message, and a key entry problem. The brakes were repaired, the batteries replaced on the key, and the SD removed and updated.

Mr B also complained about other issues such as, the emergency brakes coming on without reason, the radio going off when driving over bumps, a grinding noise from the engine, electrics shutting off, an intermittent key fault warning, headlights on full when set to auto, the exhaust blowing, the rear view mirror not working properly, a fault with the heater venting, and a Bluetooth connectivity issue. No faults regarding these issues could be identified or replicated and the business say there were no faults codes recorded.

The independent inspection that took place about four months after the car was supplied to Mr B couldn't identify any faults with the emergency braking or with the car but did mention that the spare key wasn't working.

The business have an opportunity to repair faults present or developing at the point of supply and I think they've done that. They've completed repairs to the brakes, updated the SD card, and replaced the key batteries.

They've also inspected the car for the other issues Mr B has reported but the dealership have been unable to replicate those issues and neither has an independent expert in these matters.

It seems the key error message is still an issue for Mr B but it's unclear whether it's due to a fault or due to driving style. Mr B says it's a fault as it only happens when using his wife's key, but Unity say the issue relates to driving style and is caused when the foot is rested on the clutch. I don't think we have a definitive answer.

The relevant legislation says that if a business fails to repair a fault that was present or developing when the car was supplied then the consumer should be allowed to reject the car.

But I think rejection would be disproportionate here. Mr B has explained that when the warning message appears it doesn't affect his ability to drive the car and the warning only lasts a few seconds. This car was nearly seven years old when supplied and, as I've explained, I think it's reasonable to expect a few things to have gone wrong with it through wear and tear. It's unclear whether this is an actual fault but even if it is, I think it's reasonable to categorise it as something that could be considered fair wear and tear on a car of this age and mileage. It's not something I think it would be fair to ask Unity to take any further action over.

I can see that Mr B is also still complaining about lights switching on in day light hours. The dealership were unable to identify any issues with that when it was reported to them. The business has explained that lights may come on automatically when the car drives through dark areas but that doesn't mean they're faulty. I think that seems the most likely explanation and I'm not therefore persuaded sufficient evidence has been provided of a fault with the lights.

Mr B also says he's having problems with the stop/start system and that also appears to have been reported within the first six months. The dealership didn't find any faults with the system and I'm not persuaded by Mr B's subsequent explanation, or the video he's provided, that a fault is evident. Mr B has explained that the engine doesn't switch off all the time when the car isn't in motion but I think there will be times when the engine won't switch off if the battery level is low, so in the absence of any expert corroboration the system isn't working properly I don't think it would be fair to suggest there is a fault with the stop/start function.

Mr B has mentioned he's now having problems with the radio finding channels, but that's not an issue that has been raised to Unity. Given the passage of time I think it would be fair to suggest the onus is on Mr B to demonstrate to Unity that this is a problem that was present

when the car was supplied and when they held responsibility for the car's quality. In the first instance the issue will need to be raised with Unity as they've not had a chance to consider it.

Overall, I don't think it would be reasonable to ask the business to take any further action with regards to faults on this car.

But I think it's clear Mr B has experienced some distress and inconvenience here and I'll consider how the business should therefore put things right for him.

### **Putting things right**

Whilst I haven't been persuaded there is sufficient evidence the car was suffering from all the issues Mr B has reported, I have explained that there is evidence that some issues needed resolving for him. He's had to return the car on several occasions to the dealership and hasn't always been provided with a courtesy car of the same specification, in the circumstances, I think the business should pay him £250 in compensation.

I believe that's already been done.

### **My final decision**

For the reasons I've given above I uphold this complaint in part and tell Unity Auto Finance Ltd to pay Mr B £250 to compensate him for the distress and inconvenience caused, unless they've already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 14 October 2022.

Phillip McMahon  
**Ombudsman**