

The complaint

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

What happened

In February 2022 Mr H acquired a used car through a hire purchase agreement with OFSL. The car was registered in March 2016, which means it was about six years old and had travelled around 80,540 miles at the time of supply. The purchase price of the car was £14,500, Mr H made an advanced payment of £8,000 so the total amount financed on this agreement was £6,500 payable over 36 months.

Mr H says he complained to OFSL because he was supplied with a car that had a number of faults. Mr H says OFSL arranged an independent inspection to be carried out which confirmed the faults with the bodywork meant the car wasn't of satisfactory quality when it was supplied to him. Mr H says he was told to obtain an estimate of the repair costs from an independent mechanic. Mr H provided the estimate to OFSL which they declined.

Mr H says OFSL have decided to unwind the agreement and take the car back. However, Mr H says he doesn't want to give the car back and would prefer OFSL to pay for the repairs.

In an email to us in May 2022 OFSL advised they suggested a rejection of the car because the estimated repairs were in excess of £10,000.

On 19 May 2022 OFSL provided their final response to Mr H and upheld his complaint. They confirmed they carried out an independent inspection which found some sub-standard body work repairs were carried out, although it found the car was still considered to be roadworthy. They confirmed the report found the car was not of satisfactory quality when it was supplied to Mr H.

OFSL confirmed they asked Mr H to have an estimate for repairs carried out by a third-party garage and would be happy with reconditioned second-hand parts being used for the repairs. OFSL advised that due to the repair costs the dealer preferred Mr H return the car back to them.

OFSL confirmed they would reject the car, unwind the agreement and have it removed from Mr H's credit file and refund any payments less any deductions for usage.

Unhappy with their decision Mr H brought their complaint to this service for investigation. OFSL confirmed in an email in July 2022 that the dealer would agree to repairs if it was carried out by a garage of their choice rather than by a main dealer. However, Mr H declined this and reaffirmed his wish to have the car repaired. Having considered all of the evidence, our investigator said that OFSL hadn't acted fairly in the circumstances. However he supported a rejection of the car and recommended that OFSL pay Mr H £150 in compensation for the distress and inconvenience caused.

Following our investigator's outcome Mr H advised that he felt he was being forced to give the car back. Mr H disagreed with the investigator's view and 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 H with a used car that had travelled 80,540 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 visual signs of wear and tear due to its usage.

From the information provided I'm persuaded there were issues with the bodywork of the car. This is apparent from the independent inspection report arranged by OFSL confirming the issues, and from the estimate of repairs provided by the third-party garage.

Having considered there were issues with the bodywork of the car, it seems to me there are two key issues for me to consider in relation to this complaint:

1. Was the car of satisfactory quality when it was supplied to Mr H? and
2. Is a rejection of the car the fairest outcome in the circumstances?

Both parties have are in agreement that the quality of the car wasn't what it should've been when it was supplied to Mr H. Mr H complains about the quality of his car when it was supplied and OFSL advised in their final response that they upheld Mr H's complaint. The evidence provided by the independent inspection report and the estimate of repairs from the third-party garage also persuade me that the car wasn't of satisfactory quality when it was supplied to Mr H. So, what is in dispute here is whether OFSL are acting fairly by supporting a rejection of the car rather than a full repair.

In an email to our investigator, Mr H made it clear that he wanted to keep the car and felt that he was being forced into giving it up. I recognise Mr H's strength of feeling about this,

having acquired a specific car that he wanted to have enjoyed use of, however having considered all the evidence provided I'm not persuaded this is the case.

The independent inspection report concluded that due to the multiple areas of poor bodywork the value of the car would be reduced. So, having considered the car was priced at £14,500 and the repair costs are estimated at around £10,968 I'm satisfied that it wouldn't be proportionate in terms of the overall value of the car to have it repaired.

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. As well as the right to reject the vehicle, one of those remedies is a right to repair.

I acknowledge Mr H's strength of feeling to have the car repaired, however the CRA also says:

'The consumer cannot require the trader to repair or replace the goods.... if that remedy is disproportionate compared to the other of those remedies'

So, for the reasons given I'm persuaded a rejection of the car is the fairest and least disproportionate outcome for both parties.

Putting things right

As I've found that a rejection of the car is the fairest outcome in the circumstances, I'll be instructing OFSL to end the agreement and collect the car at no additional cost to Mr H. As Mr H raised his complaint within 30 days of acquiring the car, I'll be instructing OFSL to refund to Mr H his deposit of £8,000 and all rentals from inception less OFSL's usage fee of £0.25 per mile. I think this is fair to reflect any usage Mr H has had of the car.

Mr H has said that the situation has left him feeling stressed and I can acknowledge the it would have caused him a degree of inconvenience. So, to recognise this, I'm in agreement with our investigator that OFSL should pay Mr H £150 in compensation to reflect this.

My final decision

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 to:

- Collect the car at no additional cost to Mr H
- End the hire purchase agreement entered into by Mr H and remove it from Mr H's credit file
- Refund to Mr H his deposit contribution of £8,000
- Refund to Mr H all rentals paid from inception of the hire purchase agreement, deducting the usage fee of £0.25 per mile
- Pay Mr H £150 in compensation for the inconvenience caused

Oodle Financial Services Limited should pay 8% yearly simple interest on all refunds calculated from the date of payment to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 23 October 2022.

Benjamin John
Ombudsman