

The complaint

Mr S complains about a brand-new car supplied to him under a hire purchase agreement with Honda Finance Europe Plc (“Honda Finance”).

What happened

Mr S is represented in his complaint. But to make this decision as easy as possible to read I’ve referred to everything that was said and done on his behalf in relation to this complaint as if he did it himself.

This is Mr S’s position. In 2020 Mr S was looking for a car for his commute to work. His commute is 65 miles one way. He was interested in an electric car. But he was not familiar with them never having had one before. Therefore, Mr S spoke to two separate Honda main dealerships about his requirements.

In the course of his discussions with the dealerships Mr S narrowed down his options to one car and he asked both dealerships about the range of the car on a single charge and was told the range was 127 miles by both dealerships. He was not told that this is a headline figure based on ideal driving conditions and could be fewer given factors like the weather, the route, the load carried, the starting charge, the driving style of the driver and the functions being used in the car at the same time as driving or prior to driving (such as the pre-heating function). Mr S says he asked very detailed questions and mentioned the length of his commute because he wanted to be sure that he could get to work on one charge.

Further, Mr S told the dealerships that he wanted to be able to charge his car at work for his return journey and he was told that the chargers at his workplace should be fine. Mr S says he did not have a detailed discussion about this, and on reflection he now finds the response he got to be “*dismissive*”.

In addition the dealerships told Mr S that he could fully recharge his car in 31 minutes using a rapid charger.

Mr S was reassured by the answers he received from the dealerships. Moreover he relied on what he was told, but for this he would not have gone ahead, so on this basis Mr S entered into a finance agreement with Honda Finance to acquire an electric car. The second car dealership who I will call “J” acted as the credit broker for this finance.

However, once he started driving the car Mr S found out that the most distance he was ever able to cover on one charge on his commute was 80 miles. Moreover, he was able to use the chargers at his workplace but charging the car took up to 8 hours. Whereas his colleagues who had different brands of electric cars such as Teslas were able to charge their cars far more rapidly. Despite trying lots of different fast chargers Mr S has found he has never been able to fully charge his car in 31 minutes using a fast charger. All of this came an unpleasant surprise to Mr S.

Mr S complained within three weeks of getting the car about all of these issues. He complained at first to J and then to Honda Finance. From Mr S’s perspective he had been lumbered with a car for three years (this is how long the finance agreement lasts) which was misrepresented to him and in addition is not fit for the purpose for which he acquired it. Mr S holds Honda Finance responsible for all of this. Therefore, Mr S wanted to return the car to Honda Finance and be reimbursed.

Honda Finance's initial position was that as it supplied the car it is responsible for any quality issues with the car that make the car not of satisfactory quality. However, it tested the car and found that the car was working as it should, therefore it does not agree it has to do anything further.

Dissatisfied, Mr S complained to our service.

Once the complaint was with us both Mr S and Honda Finance provided some further information.

Mr D sent us a promotional brochure for the car which was produced by the car's manufacturer. Mr D told us he was sent the brochure in an email, it appears this email came from the car's manufacturer. This email was received by him around 10 months before he acquired the car. Mr D said the brochure supports his position re what he was told about the range of the car on one charge, and the time needed to charge the car. He pointed out that there was further information in the brochure about the range of the car but that was in what he considers to be the small print and he did not read it.

This is what the brochure says about range on one charge.

"Cleaner driving

No emissions over the 125 miles you can drive on one charge."

This is what the brochure says about time to charge.

"Rapid charging

Get an 80% charge in up to 30 minutes."

This is what the brochure says in what Mr S calls the "small print":

"Electric range figures may not reflect real life driving results, which will depend upon a number of factors including the starting charge of the battery, accessories fitted (post-registration), variations in weather, driving styles and vehicle load. Power emissions, fuel consumption and range data are preliminary data only and may not reflect the official (or final) figures for the production vehicle. This data is provided for information only and you should not rely on it for comparability or other purposes."

Mr S said that one of the reasons he'd gone ahead with acquiring the car was because if he had not made the contract on the day he was told he might have to pay £500 more later.

Mr S told us when he acquired the car the manufacturer's website had no caveats about the range of the car on one charge it merely gave the headline figure. But during the course of the complaint the text on the website was modified to reflect the factors that could impact on the headline figure.

Honda Finance accepted that if J had given Mr S inaccurate information before it credit brokered the finance it would be responsible for this. However, Honda Finance explained why it did not think that Mr S had been given incorrect information by J. In particular, Honda Finance said it had asked the car's manufacturer about the sales literature that it published in relation to the car. Honda Finance also talked to J about what it had said to Mr S during the sales process.

According to the manufacturer all of the sales literature it produced made the point that the driving range of the car on a single charge would be subject to variation.

Whereas, J said that sales literature from the manufacturer forms part of the sales training for its staff. Specially, Honda Finance sent us a brochure for the car and an insert which it says were used as part of the sales process. Both of these documents talk about the factors that could impact on the driving range of the car on one charge. J said it told Mr S that the car's range would depend on a number of factors such as those I quoted above. In any event J denied it had told Mr S that the car would do 127 miles on a single charge.

According to Honda Finance J added that it explained to Mr S at the time that not all chargers were the same and would work with his car.

Moreover, J says it gave Mr S accurate information about quick charging based on the information in the brochure. This is what the brochure says about charging times:

“Charging times vary depending on the type of charger utilised but you can quick charge to 80% capacity (from the low battery warning indicator) in 31 minutes with a rapid charger.”

Honda Finance appears to adopt J’s position as its own.

For all of these reasons it did not agree that Mr S had been given inaccurate information by J at the relevant time.

One of our investigators looked into Mr S’s complaint. He did not recommend that Mr S’s complaint should be upheld.

Honda Finance accepted this recommendation, Mr S did not. In summary, he repeated his previous stance. Mr S also said his car is not achieving the mileage that was represented to him in the email he got from what appears to be an employee of the manufacturer rather than Honda Finance. In any event, Mr S pointed out that the range he is achieving is so far from the headline range that this calls into question the accuracy of that headline range. Plus Mr S told us that he had been told by employees of J that they had only had a day or two of training on electric vehicles. Therefore he questioned how adequate the training was. Plus he also indicated he thought this service was giving J the benefit of the doubt about whether the training covered the points he is complaining about. He thought by doing this we were being unfair to him.

Mr S told us he has now bought himself out of his contract with Honda Finance.

Mr S asked that an ombudsman review his complaint. I issued a provisional decision for this complaint on 28th November 2022. Here’s what I said in that decision about what I’d 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.

First, I’m very aware that I’ve summarised this complaint in far less detail than the parties and I’ve done so using my own words. I’m not going to respond to every single point made by all the parties involved. No discourtesy is intended by this. Instead, I’ve focussed on what I think are the key issues here.

Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there’s something I’ve not mentioned, it isn’t because I’ve ignored it. I haven’t. I’m satisfied I don’t need to comment on every individual argument to be able to reach what I think is the right outcome.

Mr S and Honda Finance disagree about all the key points of this complaint. Where the evidence is incomplete, inconclusive, or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.

The finance agreement between Mr S and Honda Finance, that is the hire purchase agreement, is a regulated consumer credit agreement. As such this service is able to consider complaints relating to it. There are various rules and protections about how hire purchase agreements operate, including those set out in the Consumer Credit Act 1974 and the Consumer Rights Act 2015. When I consider what is fair and reasonable I have to take relevant law into account. These Acts are relevant law.

Mr S has raised issues about what he was told about the car before he acquired it and also about the quality of the car, I’ll look at both points in turn.

Misrepresentation

When Mr S talks about being given inaccurate information which he relied on to his detriment, he's saying that Honda Finance misrepresented the car to him. In certain circumstances, the law makes Honda Finance responsible for any misrepresentations made by J in the conversations it had with Mr S. In particular, Honda Finance is responsible for misrepresentations made by J when it was acting as a credit broker. But before I go any further I need make clear what I can't look at in this complaint. I need to do this because some of the information Mr S wants to rely on I cannot take on board in the way Mr S might expect or like.

- It appears that Mr S received an email from the car's manufacturer. In that email the manufacturer sent the sales literature that talks about the range of the car and the charging times it also talks about the factors that impact on the range. Honda Finance is not responsible for all misrepresentations, Honda Finance is not responsible for what the car's manufacturer may have said to Mr S. But to be clear, I am not saying there was a misrepresentation in that sales literature.
- Mr S tells us he spoke to two dealerships. J and another dealership I will call "L". L is not the credit broker. So, Honda Finance is not responsible for anything that L might have said to Mr S in the run up to the deal.
- Mr S says J told him that if he did not take the deal, he might have to pay £500 more later. This appears to be a new matter and has not been considered by Honda Finance in its final response to Mr S. It follows that I am unable to look at this matter in this decision.

A misrepresentation is a false statement of fact that induced the consumer to contract. Mr S suggests that the misrepresentations made by J were verbal misrepresentations, that is things that he was told. By their very nature such alleged verbal conditions are hard to substantiate, and I therefore have to assess this aspect on the basis of the balance of probabilities.

Range of the car

I do find it likely that Mr S talked to J about his commute, after all this was the purpose of acquiring the car. I also find it likely that he told J about how far his commute was and that they discussed the range of the car on one charge. I accept that Mr S had never had an electric car before, and it seems likely to me these are just the sort of questions someone in his situation would ask.

The difficulty for Mr S is this, I am not persuaded that J would not have mentioned anything about the factors that could impact on driving range. This is a fundamental point for most people looking to acquire an electric car and I think J's salespeople would have been well-versed in this fundamental issue. In any event the range of even traditional cars is impacted by similar factors, so this is not a new issue in that sense or even an issue that is specific to electric vehicles only. That being so I would not have expected J's salespeople to have gone to great lengths in explaining this issue.

I am not saying that I am persuaded that J's training for its salespeople was extensive, Mr S may be correct that the training may have only been one or two days. But the question of range is not some esoteric point it is very basic. Therefore I think it would have been covered in training and I think it would've been mentioned to him on balance.

Moreover, I have not seen anything so far that persuades me that the 127 miles per charge is incorrect. I will talk more about this below. Neither have I seen anything that suggests that Mr S was guaranteed by J that he would achieve the 127 miles on every journey, rather, it seems more likely he was told this would be the maximum mileage he could achieve in ideal conditions.

I've not seen what the manufacturer's website said before and after the contract. Therefore I cannot infer anything from that about what J most likely said to Mr S.

For all of these reasons I am not persuaded that J misrepresented the range of the car to Mr S. It follows I don't find that Honda Finance has to take further action in relation to this point.

Difference between the headline driving range and the range Mr S says he is achieving

There is a very big gap between the headline driving range that the sales literature talks about, and the range Mr S says he is achieving, even taking into account the factors that impact on range. If Mr S was able to show that on average the car was never achieving anything close to the headline range even in ideal driving conditions then that could be a misrepresentation.

However, the car has been tested by the manufacturer's technicians and they suggest the car was working as it should. Therefore, what I'd need to see would be independent evidence from an expert to show this was not the case. Since it appears Mr S no longer has access to the car it is unlikely he is going to be able to demonstrate this.

It follows from what I've said above that I don't uphold this complaint point.

Charging points at Mr S's workplace

I am persuaded that Mr S and J talked about charging the car at his workplace. I am not persuaded though that J did not mention that there are different types of charging points.

Moreover I am not satisfied if it did not mention the existence of different types of charging points that this is an omission that would be a false statement of fact.

Further even if J did just say the charging points at work will be fine, I don't think a throwaway comment which this appears to have been, could be a representation in these circumstances.

In any event it appears that Mr S can use the charging points at work, but it takes longer for his car to charge than other cars so that statement would be true.

For all of these reasons I am not persuaded that J made the misrepresentations that Mr S talks about. Therefore I have no fair and reasonable grounds for upholding this part of Mr S's complaint.

Fast charging

Mr S says J told him the car could fully charge at a fast charger in 31 minutes. The written information I've seen suggests an 80% charge can be achieved in 31 minutes at a fast charger. On balance I don't find it likely that J would have said something about this that contradicted sales literature.

Further, it appears that the car has been tested and the battery is working as it should and the software is up to date. Which suggests to me that the 80% charge is possible. Given this, without independent evidence to show the actual time the car is taking to fast charge I don't find that the car is not charging as it should and as was promised. And it appears Mr S no longer has the car in his possession, I say this as he tells us he bought himself out of the contract, so I don't see how he'd be able to demonstrate this now.

For all of these reasons I don't uphold this complaint point.

Quality of the car

Mr S says two things about the quality of the car.

- *J made such specific representations about the range of the car, and how it could be charged that these became terms of the contract.*
- *The car is not fit for purpose.*

Honda Finance is the supplier of the car. It is responsible for ensuring that the car reached the right quality standard. That is it had to make sure the car was of satisfactory quality. The relevant law 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.

I've already found that I am not persuaded that J made the representations Mr S says it did, so this part of the complaint falls away.

Being fit for purpose is an aspect of satisfactory quality. That said, the manufacturer's technician checked the car. They have concluded the car is working how it should i.e. that it is fit for purpose. That's not the final word on the matter. Mr S could challenge this but in the circumstances I would need information from an independent expert. And I've already gone through above why I think that might not be possible now.

For all of these individual reasons, I am not currently persuaded that I have any proper basis for finding that the car was not of satisfactory quality when supplied. Therefore I cannot fairly or reasonably require Honda Finance to take any further action in relation to this complaint point."

My provisional decision was:

"Provisional decision

My provisional decision is that I don't intend to uphold this complaint."

I invited Mr S and Honda Finance to respond to my provisional decision should they wish to do that. As far as I am aware we received a response only from Mr S. In brief, Mr S responded by repeating his earlier stance. He also expressed disappointment with the outcome of the provisional decision. Mr S said we had given Honda Finance the benefit of the doubt about the verbal misrepresentations that he said had been made. Mr S said this service had let him down by taking so long to deal with his complaint. In particular, he said if we had dealt with his complaint sooner he would still have the car and could have got it tested. Mr S sent us customer posts from a forum where people who had owned the same car as Mr S had acquired explained the difficulties they'd had with their cars.

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 thank Mr S for his response to the provisional decision.

I regret that Mr S is disappointed, that was not my intention. But I explained in the provisional decision why based on the information I had seen I had no proper basis to uphold his complaint although I do acknowledge his strength of feeling about his complaint.

What was said to Mr S by J was in dispute. Therefore I had to look at this on the basis of the balance of probabilities, and when I did that I was not persuaded by Mr S's account of events. That does not mean I was siding with any party against the other.

I regret and apologise for the length of time it has taken this service to deal with his complaint. It was open to Mr S at any time when he had the car to get an expert to look at and prepare a report on the car. I don't say this to upset him further, far from it. Rather I wanted to make it clear that Mr S has had a fair opportunity to provide any information he wanted to provide including an expert's report.

Whilst comments from customers on a forum can go towards demonstrating manufacturing issues, these comments throw no light on the question of what Mr S was most likely told in the antecedent negotiations before the contract was made. And whilst I can see that other customers had issues, for example with the mileage achieved on one charge, I don't know enough about the individual circumstances of their cases to say that this suggests there was an underlying manufacturing problem with the car that Mr S had.

I've not been persuaded by Mr S's response to the provisional decision. It follows I have reached the same conclusions as I did in the provisional decision, for the reasons set out in that decision and the reasons set out in this decision.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 20 January 2023.

Joyce Gordon
Ombudsman