

## **The complaint**

Mr R complains about the quality of a car he has been financing through an agreement with Creation Consumer Finance Ltd (who I'll call "Creation").

## **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 Creation, but I think this car wasn't of satisfactory quality and I'm asking them to allow Mr R to reject it. I'll explain why.

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 R 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 Creation, 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 R. The car here was already about six years old and had completed a little over 91,000 miles. So, I'd expect some wear and tear, but I don't think a reasonable person would expect to experience the problems Mr R has experienced, even on a car of this age and mileage.

The relevant legislation explains that when we think about whether a car has been of satisfactory quality we should think about whether it's been durable. The mechanic who looked at the car in January 2022 corroborated the findings in the Mercedes report of the previous month. He said there was a fault with the Diesel Particulate Filter, and it needed replacing. Whilst I understand that these can become clogged over time and may need regenerating, I don't think a reasonable person would consider a car to have been durable if one needed replacing after only five months of driving. So, I think Creation should have allowed Mr R to reject the car.

### **Putting things right**

Creation will need to collect the car at no cost to Mr R and they will need to end the finance agreement.

They should refund any deposit Mr R has paid and add interest to that refund as Mr R has been deprived of the money.

Mr R has understandably not been able to use the car since March 2022 because of the problems he's had with it. Creation will therefore need to refund any payments he's made towards his agreement from March 2022 onwards. They'll need to add interest to that refund too.

Mr R has experienced distress and inconvenience as a result of these issues. He's had to take his car back for repairs and to commission a report diagnosing the problem. He's also had to escalate his complaint to this Service when I think it could have been resolved earlier. In the circumstances I think Creation should pay him £350 in compensation.

### **My final decision**

I uphold this complaint for the reasons I've given above and tell Creation Consumer Finance Ltd to:

- End the agreement and collect the car at no cost to Mr R.
- Refund any deposit Mr R has paid.
- Refund any finance instalments Mr R has paid from, and including, March 2022.
- Pay 8% simple yearly interest on all refunded amounts from the date of payment until the date of settlement.
- Pay Mr R £350 in compensation for the distress and inconvenience that's been caused.
- Remove any adverse information they may have reported to Mr R's credit file in relation to this agreement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 25 April 2023.

Phillip McMahon  
**Ombudsman**