

The complaint

Mr W complains about the quality of a car he has been financing through an agreement with Marsh Finance Ltd, who I'll call Marsh.

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.

Mr W has been represented by his mother during this complaint, but as the finance agreement is in Mr W's sole name, and for convenience, I'll refer only to him in this decision. I mean no disrespect to his representative when doing so.

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 W, but I think Marsh have now made a fair offer to settle this complaint and I'm not asking them to do any more. 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 W acquired his car under a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

There's no longer a dispute that this car was of unsatisfactory quality. Since the complaint was referred to this service an independent inspection has been commissioned by Marsh. The inspector confirmed that the oil leaks were likely to be present when the car was supplied to Mr W and Marsh therefore agreed to take the car back and to end the finance agreement. They've now agreed to refund two of the four finance instalments that Mr W paid and to provide £100 compensation for the distress and inconvenience that's been caused. Mr W paid £60 for a report into the condition of the car and Marsh have also agreed to refund that.

Whilst it's fair that Mr W receives a refund of instalments for the lack of use of the car he was financing, it's also fair for him to pay for the use he's had. Here, Mr W disputes he travelled over 4,500 miles in the car from inception of the deal at the end of August 2022 until the date of the independent inspection October 2022. He says the mileage recorded at the start of the agreement must have been wrong and was more like 70,000 miles than 67,000. I've had a look at the mileage recorded on the MOT's but that doesn't help to establish if there was an error in the initial mileage, as the MOT was completed six months before the car was

supplied to Mr W. On balance, I think it's unlikely Mr W would have completed over 4,500 miles in the car, but it's not possible to say how much he completed. I think Marsh's position is fair on how much to retain for fair use. I think it would be fair for Mr W to pay two monthly instalments for the use he's had from the vehicle and for Marsh to refund the rest, with interest as Mr W has been deprived of that money. Marsh can deduct anything they've already refunded.

Marsh should refund the £60 Mr W says the diagnostic report he commissioned cost, as that charge wouldn't have been incurred if the car was of satisfactory quality. They'll need to add interest to that refund too, but Mr W will need to provide proof of payment to Marsh first.

I understand that the car has already been returned, and that the agreement has already been ended, but if that's not the case Marsh should do that.

Mr W has been inconvenienced by these issues as he's had to commission a diagnostic report and escalate the complaint to this service when I think it could have been resolved earlier. But Marsh have mitigated that inconvenience as they've already agreed to carry out some actions and haven't simply waited for the result of our investigation. Taking all of that into account, I think Marsh should pay Mr W £100 in compensation.

Putting things right

I think Marsh should put things right in the way I've set out above and detailed below.

My final decision

For the reasons I've given above I uphold this complaint and tell Marsh Finance Ltd to:

- End the agreement and collect the car if that's not already been done.
- Refund two of the four monthly instalments paid and add 8% simple interest from the date of payment to the date of settlement.
- Refund £60 for the diagnostic report Mr W paid for, on provision of proof of payment from Mr W. Add 8% simple interest from the date of payment to the date of settlement.
- Pay Mr W £100 to compensate him for the distress and inconvenience caused.
- Remove any adverse reports they may have made to Mr W's credit file in relation to this issue.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 19 May 2023.

Phillip McMahon
Ombudsman