

The complaint

Mr A complains about a car he acquired under a hire purchase agreement with Creation Consumer Finance Ltd.

What happened

In November 2021 Mr A acquired a used car under a regulated hire purchase agreement financed by Creation. The car was three years old, had a mileage of about 20,000 miles, and had a cash price of £37,500. Mr A paid a deposit of £3,000, and the balance was financed under the agreement (under which he had to make 60 monthly payments of £662.77).

The following month, Mr A called the dealership to report two faults. He said a rattling noise was coming from the dashboard, and the engine management light (EML) was on. Mr A has also told us that, at the time, there were two other faults: the acceleration pedal was shaking and the brake pedal was squeaking. The dealer told him that as the car was still under warranty, he should go to one of the manufacturer's garages.

Mr A took the car to a garage in January 2022. That garage replaced the NO_x sensor, which stopped the EML coming on. But it told him that the rattling noise would cost over £1,200 to diagnose, as it would not be covered by the warranty. So Mr A did not agree to that issue being investigated further, and the car was returned to him in February.

In June 2022, Mr A took the car back to the garage because of an issue with the gearbox, and also a new sound, a buzzing noise. The gearbox issue was repaired, but not the buzzing noise. However, the garage said that neither of these issues were faults. In its opinion, the gearbox issue was the result of the selector lever button sticking because it had been pressed unintentionally. And the buzzing noise was only the steering lock turning on and off when the ignition was turned on and off.

In July 2022, Mr A took the car to the garage for a third time. Some parts in the dashboard were refitted, and this stopped the rattling noise.

Also in July, Mr A brought this complaint to our service. He complained about the buzzing noise, the gearbox issue – which he says is still occurring – and a new problem: he said that while driving on the motorway, the steering wheel had been going from left to right by itself. As he had not yet complained to Creation, his complaint was referred to Creation in accordance with FCA rules. Meanwhile, in September, Mr A emailed Creation about the steering wheel problem. And in December he stopped driving the car because he had lost confidence in it.

After Creation had been allowed eight weeks to investigate this complaint, one of our investigators looked into it. She upheld this complaint. She thought that the car must have been faulty when it was supplied to Mr A. Although the usual remedy would be to allow the dealer one attempt at repairing the car, she thought that would not be suitable in this case, because the dealer had already had long enough to repair the car, and also because she didn't know if another repair would be effective or proportionate. So instead, she recommended that Mr A be allowed to reject the car, with nothing else to pay under the hire

purchase agreement. She said that his deposit and five percent of his monthly rental payments should be refunded (with interest), he should be paid £300 for his inconvenience, and the agreement should be removed from his credit file.

Neither party was satisfied with that opinion. Mr A wanted more compensation. And Creation insisted that the dealer should still be allowed an attempt to repair the car. It argued that Mr A had only taken the car to a third party to be repaired, so the dealer should be allowed a chance to fix it. If the warranty did not cover the repairs then he should have taken it to the dealer in the first place. And it said Mr A shouldn't have been driving the car between February and December 2022, because if there was still a fault then continuing to drive the car might have made it worse.

Since no agreement could be reached, this case was referred to me for an ombudsman's decision. I wrote a provisional decision which read as follows.

What I've provisionally 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 have seen the invoices for all of the repairs I have described above, and none of them refer to either the brake pedal or the accelerator pedal being repaired or even looked at, either in January and February 2022 or at any other time. And I've seen a chain of emails between Mr A and the garage, and these don't mention any problem with the pedals either. So I'm not persuaded that there is a real issue with the pedals. The only evidence of any faults in 2021 and early 2022 relates to the EML and the rattling noise. Both of those have since been fixed.

I accept the garage's diagnosis that the buzzing noise and the gearbox issue were not faults. There is no expert evidence to the contrary, and so I have no reason to doubt what the garage says about this. I accept that the gearbox issue has recurred since it was repaired, but that is something that Mr A would have to take up with the garage. Creation is not responsible for it.

Creation would only be responsible for the steering wheel issue if it was already present or beginning to develop when the car was supplied to Mr A. Mr A first raised this matter eight months after the car was supplied to him. He describes this fault as happening suddenly. I think there is not enough evidence before me for me to make an informed decision about whether this fault was already developing eight months earlier. So I am not persuaded that this is a fault for which Creation is liable.

If Mr A still maintains that there are faults with the steering and / or the pedals, then he is welcome to take the car to the dealer to be looked at. If the result is that faults are identified, and that they are faults which were probably already present or developing in November 2021, then Creation will be liable for the cost of repairing them. But at present I am unable to conclude that Creation has done anything wrong, other than to supply Mr A with a car which had a faulty NO_x sensor and a rattly dashboard. I think that £300 is fair compensation for that.

Responses to my provisional decision

Mr A reported some new faults which had come to light since my provisional decision. I have seen no evidence about those, but as they are new matters I think that they would have to form the subject of a new complaint, to give Creation a chance to investigate them. Mr A did not respond to the substance of my provisional decision, and neither did Creation. So there

is no reason for me to depart from my provisional findings, and I confirm them here.

My final decision

My decision is that I uphold this complaint in part. I order Creation Consumer Finance Ltd to pay Mr A £300.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 4 July 2023.

Richard Wood
Ombudsman