

The complaint

Mr T is unhappy that a car supplied to him under a hire agreement with Arval UK Limited was of an unsatisfactory quality.

What happened

In June 2020, Mr T was supplied with a new car through a hire agreement with Arval. The agreement was for 48 months, with monthly payments of £406.55.

In January 2021, the car's engine management light (EML) came on. Mr T took the car back to the supplying dealership, and the Diesel Particulate Filter (DPF) was replaced due to excessive soot. The dealership told Mr T this was caused by his driving style.

The EML came on again in July 2021, and the dealership said that the gas temperature sensor wasn't fitted correctly. And the DPF needed regeneration. This work was completed on 22 July 2021. On 16 August 2021, the dealership replaced the DPF for the second time, as the DPF fitted in January 2021 was damaged.

The EML came on again in March 2022 and, on 22 April 2022, the dealership regenerated the DPF. They again said this was caused by Mr T's driving style. However, Mr T took the car to a different manufacturer's dealership and, on 16 June 2022, the DPF was replaced for a third time. Following this, with the help of a phone app that allows the soot levels to be monitored, Mr T has been able to manage the DPF regeneration cycle and hasn't experienced any further problems.

Mr T complained to Arval about the issues with the DPF. He also took independent legal advice about what had happened. However, Arval didn't uphold the complaint, so Mr T brought it to the Financial Ombudsman Service for investigation. And he said he'd like to reject the car, be compensated for the two years of stress and inconvenience he'd suffered and be reimbursed for the £1,500 legal costs he'd paid.

Our investigator said they were satisfied there was a fault with the car, and that the DPF wasn't sufficiently durable. While Arval said that Mr T needed to provide more evidence that the car wasn't of a satisfactory quality i.e., by way of an independent engineer's report, the investigator didn't think this was necessary. They said they'd seen enough evidence to show them there was a problem with the car that'd now been fixed.

Because the car was now fixed, the investigator said that Arval should pay Mr T £200 for the distress and inconvenience he'd been caused.

Mr T didn't agree. He said that the issue with the DPF wasn't under control, but he had a temporary measure in place (the diagnostic equipment and app). And, because of this, he didn't think the car was fit for purpose – under normal use the car doesn't warn the driver about DPF regeneration, and this lack of warning light means the DPF gets blocked, and the EML comes on. He also said that the use of the phone app wasn't a permanent solution and wasn't something it was reasonable to expect a normal driver to use.

Mr T also said that it wasn't reasonable that the DPF would need to be replaced so often in a car with such low mileage.

Mr T had the car inspected by an independent engineer on 17 March 2023. The engineer said the DPF wasn't sufficiently durable, and that it wasn't sustainable for Mr T to monitor the regeneration as the car should be doing this itself. However, the investigator didn't think this report changed their view. So, Mr T asked for an ombudsman to make 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.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mr T was supplied with a car under a hire agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

The Consumer Rights Act 2015 (CRA) says, amongst other things, that the car should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of goods, Arval are responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history and its durability. Durability means that the components of the car must last a reasonable amount of time.

The CRA also implies that goods must conform to contract within the first six months. So, where a fault is identified within the first six months, it's assumed the fault was present when the car was supplied, unless Arval can show otherwise. But, where a fault is identified after the first six months, the CRA implies that it's for Mr T to show it was present when the car was supplied.

So, if I thought the car was faulty when Mr T took possession of it, or that the car wasn't sufficiently durable, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask Arval to put this right.

Before I address the issues with the car, I think it would be useful to explain the function of the DPF, and what's required to keep it in fully working order. The purpose of a DPF is to remove diesel particulate matter, commonly referred to as soot, from the exhaust fumes of modern diesel engines.

According to the manufacturer's handbook for the car supplied to Mr T, *"during normal driving conditions, the DPF collects particles in the exhaust to be burned off when it reaches a high temperature. As the filter becomes full, a cleaning process occurs automatically. This is known as regeneration. Shorter journeys, such as those often taken in a city, can make this process more difficult as the system does not get hot enough."*

The manufacturer recommends journeys above 37mph for 20 minutes are required to clean the DPF. The manufacturer also says that failure to regenerate the DPF has the potential to affect the car's performance. It's widely accepted that regeneration of the filter is usually achieved by regular motorway (or equivalent) driving, and a car with a DPF is unsuited to being used for shorter, slower journeys such as town/city driving, where journeys of a consistent length and speed required to regenerate the DPF aren't taking place.

Having reviewed the iGuide for the car, I've also noted that, unlike some models produced by the manufacturer, the make and model of car supplied to Mr T doesn't have any DPF warning lights on the dashboard.

Mr T has said that he's done journeys that fit within the manufacturer's parameters for DPF regeneration and provided some evidence of this. However, this evidence is only from the phone app that he's using to monitor the soot levels in the DPF, so that he can make sure it's regenerated.

I've seen the job sheets for the work done to the car that relates to the DPF. The job sheet for 19 January 2021, when the car had done 2,812 miles, shows that the DPF was blocked and needed to be replaced. The job sheet for 22 July 2021, when the car had done 4,898 miles shows that a sensor wasn't fitted correctly, and the DPF needed a forced regeneration.

The job sheet for 16 August 2021, when the car had done 5,469 miles, shows that the DPF needed replacement as it was cracked. Finally, the job sheet for 20 April 2022, when the car had done 9,381 miles, shows that the DPF was replaced for a third time.

I'm aware that, following the third DPF replacement, Mr T was taking manual steps, by using plugged in diagnostic equipment linked to a phone app, to monitor the soot levels in the DPF, and to undertake a journey so as to regenerate the DPF as and when necessary.

I've also seen the independent engineers report, dated 20 April 2023, relating to an inspection that took place on 17 March 2023. The engineer explains that they've seen the job sheets for the work that was previously done on the car, as well as inspecting the car itself. The engineer said that *"there are no issues surrounding the DPF"* and went on to explain Mr T *"is intervening before this becomes an issue, as he is monitoring the soot levels himself and when it becomes high enough, he is taking the vehicle for an extended drive to carry out a regeneration."*

The engineer went on to say *"the vehicle should in its own right be carrying out a regeneration when all parameters are met, however it appears that these are not being met at times ... it is unclear now what would occur to the vehicle without [Mr T's] intervention."*

The engineer concluded that Mr T *"is intervening to enable the DPF not to become blocked and cause further damage, however, this is not a sustainable method of using the vehicle and the vehicle should be carrying out the DPF regeneration under its own parameters [and] three new DPF's fitted in a relatively short period of time [is] not normally consistent with the implementation of this technology."*

Based on what I've seen, I'm satisfied that the issues Mr T experienced with the car related to the regeneration of the DPF. I've noted that Mr T signed a four-year agreement that limited the mileage to a total of 50,000 miles (12,500 miles a year). However, in the almost two years between being supplied with the car, and the third DPF being fitted, Mr T had done less than 10,000 miles. And, in the year between the third DPF being fitted and the independent engineer's report, Mr T had done a further 8,500 miles.

It's clear from the manufacturer's instructions that regular journeys of a sustained speed and time (therefore distance) are needed to keep the DPF regenerated. And this is reflected by the mileage allowable under the agreement. For the first two years of being in possession of the car, Mr T did a relatively low mileage of under 5,000 miles a year, and it was during this time that he had repeated issues with the DPF. However, in the third year, his mileage almost doubled, and he no longer had any issues with the DPF.

Given this, for the first two years, I think it's more likely than not that Mr T wasn't driving the car in line with the manufacturer's requirements to ensure the DPF regenerated. As such, the DPF became blocked and required replacement in both January 2021 and April 2022 (the replacement in August 2021 was due to damage to the DPF, and not because it was blocked with soot).

I appreciate the independent engineer's comments that Mr T monitoring the soot levels in the DPF using a phone app *"is not a sustainable method ... and the vehicle should be carrying out the DPF regeneration under its own parameters."* However, the regeneration is taking place as a result of how Mr T is now driving the car i.e., by the longer journeys of a higher sustained speed that he's evidenced, which is in line with how the manufacturer has said the car should be driven.

What's more, the independent engineer hasn't said that the DPF is failing due to another issue with the car, or that any parts needed replacing. The engineer has said *"in this instance the vehicle may not have reached the required standard and therefore may be considered not to be of satisfactory quality"*, but, now the DPF has been replaced and Mr T is driving it in such a way as to ensure regeneration, I'm also satisfied the car has been repaired to a satisfactory standard. So, I won't be asking Arval to allow Mr T to reject the car.

However, it's clear that the DPF fitted to the car in January 2021 was faulty, and it was cracked and required replacement in August 2021. This resulted in Mr T having a further issue with the car, and the need to have to take it back to the dealership for repair. I appreciate this would've been both frustrating and inconvenient for him, and I think Arval should compensate him for this.

The investigator has recommended Arval pay Mr T £200 compensation for the distress and inconvenience he's been caused, and I've seen Arval have accepted this recommendation. While I appreciate that Mr T most likely won't agree that this is sufficient compensation, and that he was looking to reject the car, as this recommendation is within the region of what I would've asked Arval to pay, had no recommendation been made, I see no compelling reason why I shouldn't adopt it as part of my decision.

Putting things right

Therefore Arval should:

- pay Mr T £200 compensation for the inconvenience he's been caused.

My final decision

For the reasons explained, I uphold Mr T's complaint about Arval UK Limited. And they are to follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 19 September 2023.

Andrew Burford
Ombudsman