

## **The complaint**

Mr S complained to RCI Financial Services Limited when a car he acquired under a hire purchase agreement wasn't as expected.

## **What happened**

RCI agreed credit for Mr S in April 2016 via a third party dealership in order to acquire a car. The cash price of the car was £13,950. Mr S paid a £3,000 deposit and borrowed £10,950. The total owed under the agreement including the deposit, interest and charges came to £17,888.76. This was to be repaid by 48 monthly instalments of £179.87 followed by one monthly instalment of £6,255.

Mr S complained to RCI in November 2022 that the car he acquired was a used car and he was under the impression that he was being supplied with a new one. Mr S also complained that the car showed signs of rust on the rear wheel hubs which he felt was premature and a result of the car being second-hand. Mr S said he was told that he'd been supplied with a used car when he raised the issue of the rust with the dealer. He said he feels betrayed and disappointed over this and feels he paid too much for the car.

RCI didn't uphold Mr S's complaint. It said that the car had been first registered the month before it was supplied to him and so it had no reason to believe that the car had been used or had any previous owners. RCI said that it couldn't comment on what Mr S been told by the selling dealership but that he'd had the opportunity to fully inspect the car before acquiring it, so it didn't believe that any advice on the car being classed as new would have been misleading or incorrect.

Mr S didn't accept this response and brought his complaint to us. One of our investigators looked into it but didn't recommend that it be upheld. They found that the car hadn't been misrepresented to Mr S nor was of unsatisfactory quality when supplied. Mr S asked for his complaint to come to an ombudsman to decide.

Mr S had also complained to RCI that it paid sales commission to the dealership that sold him the car, which disadvantaged him. This particular issue is the subject of another complaint with us under a difference case reference and does not form part of this investigation or determination.

## **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 have also taken into account the law, any relevant regulatory rules and good industry practice at the time. These include, for example, the Consumer Rights Act (CRA) 2015 and the Financial Conduct Authority's Consumer Credit Handbook (CONC) which sets out regulations and guidance for lenders such as RCI.

The credit to buy the car was granted by RCI under a hire purchase agreement meaning Mr S would own the car when the total owed under the agreement had been repaid. RCI was the owner of the car until that point and Mr S was, in essence, paying for its use. As the owner of the car bought from the dealership, RCI was responsible for the quality of the car. As the lender, RCI was also responsible for any information the dealership provided to Mr S before he entered into the hire-purchase agreement.

My main considerations in this case are - was the car misrepresented to Mr S, in other words was he given false information about it which persuaded him to enter into the agreement? Was the car of satisfactory quality when supplied, in other words was it of a standard a reasonable person would consider satisfactory for the car in question?

#### Was the car misrepresented to Mr S?

In order to find that the car was mis-represented to Mr S, I need to find that not only was he given unfair or misleading information about it but also that that information persuaded him to go ahead with the hire when he would not otherwise have done so.

Mr S said that he was under the impression that the car he was buying was a new, unused and unregistered car which had come straight from the manufacturer. He said he'd been provided with a free three-year parts and labour warranty and breakdown cover which wouldn't have been the case with a second-hand car.

Clearly, I can't know exactly what was said to Mr S at the point of hire. I've borne in mind that the car was supplied to Mr S more than six years ago and so I think it's fair to place some weight on the available information from the sale when considering his recollections. This includes the vehicle order form and the invoice, and the finance agreement. The order form is entitled 'Used vehicle order' and is dated 11 April 2016. All three show the car's registration date as 22 March 2016. The order form shows the mileage as 10 miles, and the invoice shows it as 13 miles. Mr S signed the order form and the agreement, dated the 26 April.

Mr S said that the forms he signed were placed on top of each other and that he was not shown nor given a copy of the used vehicle order or he would have cancelled the order. Mr S provided his Vehicle Registration Certificate or V5C which shows that the car was new when registered and was first registered to the dealership on 22 March 2016. I think it's likely that Mr S knew when he acquired the car that the car had been first registered to the dealer and that he was the second registered keeper. I think if this came as a surprise to Mr S and impacted on his decision to enter into the agreement then he would have raised it at the time and I haven't seen any indication that he did so.

Mr S also told us that the car had travelled about 2,000 miles by the time it was supplied to him. He said he queried this with the dealer who told him that this was a normal amount of miles as the car had to undergo rigorous testing before it was released to him. Mr S hasn't been able to provide me with any evidence to show that the mileage when supplied was as he recalls, which is understandable given how long ago this happened. The only evidence I have shows the car had travelled 10 to 13 miles by mid-April 2016. But, even assuming the mileage had increased by the time the car was supplied to Mr S, he didn't raise a complaint about it at the time and accepted the car. So I can't fairly say now that that knowing about the mileage would have stopped Mr S from entering into the agreement.

In conclusion, I don't think the car was mis-represented to Mr S.

#### Was the car of unsatisfactory quality when supplied?

Mr S said that the rear wheel hubs of the car had rusted prematurely. He provided a service record which states in the first service in April 2017 at 12,128 miles that the anti-corrosion check was ok and that there was premature rust on the rear brake drums. The service record mentions this every year, noting in July 2022 at 74,217 miles that the rear brake drums were badly rusted.

The Consumer Rights Act (CRA) 2015 implies a term into any contract to supply goods that those goods will be of satisfactory quality when they are supplied. Satisfactory means what a reasonable person would expect, taking into account the description of the goods, the price and any other relevant circumstances. If a customer finds a fault with the goods, as Mr S has with his car, it doesn't automatically mean that it was of unsatisfactory quality when it was provided. It depends on the circumstances which would include, in this case, the nature of the fault and when it first arose.

The CRA gives customers solutions if they find themselves with faulty goods where the fault was present or developing at the point of supply. Mr S told us that he would like compensation as he feels he paid more than he should have for the car, given this issue.

I've first considered whether or not the issue Mr S experienced was present or developing when it was supplied to him. Mr S raised this issue with RCI (and before this with the dealership) towards the end of 2022. Mr S feels the deterioration of the wheel hubs was premature, and the problem was described as such in the service record. It is possible of course that the car was supplied to Mr S with rusting rear wheel hubs or ones which were beginning to deteriorate. It is also possible that the hubs deteriorated long after the car was supplied, given how far the car had travelled in its first year and that the condition of wheel hubs can be impacted by how the car was used and stored.

Altogether, I can't fairly say that the car was supplied to Mr S in that condition or that it was developing that condition. This means I can't find that the car was of unsatisfactory quality when it was supplied, and so Mr S doesn't have recourse to any solutions that could be provided under the CRA.

I appreciate that this will be disappointing for Mr S but I am not upholding his complaint against RCI.

### **My final decision**

I am not upholding Mr S's complaint against RCI Financial Services Limited and don't require it to take any further action in this matter.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 6 September 2023.

Michelle Boundy  
**Ombudsman**