

## **The complaint**

Ms K complains Arval UK Limited (Arval) won't reimburse her for the cost of repairs for a car that was supplied to her under a hire agreement.

## **What happened**

In May 2021, Ms K entered into a 36 month hire agreement for a new car. She made an initial payment of £247 and thereafter she was required to pay monthly instalments of £247. As part of the agreement, she also selected to purchase a car maintenance package at a monthly cost of around £21.

In June 2022, a fault was found with the clutch and it needed to be replaced. Ms K was told the repair wouldn't be covered under warranty nor under the car maintenance package, meaning she was liable for the cost. Arval said the damage to the clutch was caused by Ms K's driving style.

Ms K paid over £820 for the replacement of the clutch. She complained. In summary, she said she was an experienced driver, she hadn't caused the fault and she didn't give her approval for the repairs to be carried out despite Arval initially asking her authority to do so. She requested to be reimbursed for the repair. Arval maintained their position as outlined above.

Unhappy with their response, the complaint was referred to our service. Our investigator recommended the complaint was upheld. He said given the car's age and mileage and the lack of evidence to support Arval's allegation, he believed the fault with the clutch was most likely to be an inherent manufacturing fault rather than it being due to Ms K's driving style. He said he didn't think the car was of satisfactory quality at supply. To put things right he said Arval should reimburse Ms K for the cost of the repair and pay £100 compensation for the trouble and upset caused.

Arval disagreed. They said the clutch had been damaged by heat and overuse. They reiterated their belief that the fault was caused by Ms K and it was likely she was 'riding the clutch'. They commented they wouldn't expect such damage for a car of that age and mileage.

As an agreement couldn't be reached, the complaint has been referred to me to decide.

## **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 decided to uphold Ms K's complaint. I will explain why.

Ms K acquired a car under a regulated credit agreement. Arval was the supplier of the goods under this type of agreement meaning they are responsible for a complaint about the supply and the quality of the car.

The Consumer Rights Act 2015 (CRA) is relevant to this complaint. It says that, under a contract to supply goods, there is an implied term that “the quality of the goods is satisfactory”. To be considered “satisfactory”, the goods would need to 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 involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage.

In this case, Ms K was supplied with a new car so it would be reasonable to expect the quality of it to be higher than a more well used one and it would be free from defects and for a significant amount of time.

Ms K experienced issues with the clutch approximately 12 months after she acquired the car and it had travelled around 12,600 miles at that point.

Based on the evidence, it’s clear there was a fault with the clutch, that’s not in dispute. What I must decide is whether that fault was present or developing at supply or whether it was caused by Ms K’s driving style as alleged by Arval.

I’ve carefully considered the comments of the technician who looked at the car and the pictures of the clutch. It’s said the clutch had signs of overheating and the lining was destroyed. I accept a person’s driving style and use of a vehicle can affect the life span of a clutch but I must also take into account there could be other reasons.

In my opinion, Arval hasn’t provided sufficient evidence for me to reasonably say the fault was caused by Ms K’s driving style and there’s no indication they considered whether it could’ve been caused by anything else. Ms K has told our service that she is an experienced driver of over 25 years and has never had any clutch issues caused by her driving style. She’s also commented she wasn’t given the opportunity for the car to be looked at by another party (to get a second opinion) because the repairs were carried out without her approval.

But even if I was to believe Ms K did have poor driving habits (which to reiterate I don’t have enough evidence to say that was the case), I wouldn’t expect the clutch to be damaged to the extent that it needed a full replacement after only having travelled around 12,600 miles. I’d expect it to last longer than it did. When considering the satisfactory quality of a car, I must also consider durability. In this case, I find the clutch has failed prematurely which to my mind indicates it’s most likely there was already a fault when the car was supplied to Ms K. Meaning it wasn’t reasonably durable.

Taking everything into account, given the car’s age and mileage when the fault developed, I’m not satisfied it was of satisfactory quality when supplied. Therefore I find it reasonable that Arval should accept responsibility for the cost of the repairs and reimburse Ms K for the same. In addition, given Ms K had to return the car for repair and arrange its collection, I also find Arval should pay £100 compensation for the trouble and upset caused.

### **My final decision**

For the reasons set out above, I’ve decided to uphold Ms K’s complaint.

- Reimburse Ms K for the cost of the repair to the clutch plus pay 8% simple interest per annum on this amount from the date of payment up to the date of settlement\*;
- Pay £100 compensation to Ms K for the trouble and upset caused.

\*If Arval UK Limited considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Ms K how much it's taken off. It should also give Ms K a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 3 November 2023.

Simona Reese  
**Ombudsman**