

The complaint

Mr S complains about the quality of a car supplied to him under a hire purchase agreement with Zopa Bank Limited ("Zopa").

What happened

In July 2022, Mr S took out a hire purchase agreement with Zopa for a used car. This car was just over eight years old and had covered around 59,000 miles. The cash price was £18,995.

Mr S says that after bringing the car home he noticed a knocking noise coming from the steering. He says he spoke to a mobile mechanic, who told him the noise was coming from the steering rack. Mr S says he made further enquiries and was shocked to discover replacing the steering rack could cost between £600 - £4,500.

In August 2022 Mr S complained about this to the supplying dealer and his credit broker. He sent them a copy of an invoice he'd got from the mobile mechanic, which said:

"Found play in rack adv replacement rack or repair".

Mr S says the dealer collected the car from him on 17 August 2022 and had it inspected. He says the dealer then told him there was nothing wrong with the car.

Zopa arranged for an independent engineer to inspect the car in October 2022, before issuing their final response to Mr S. They said based on the independent engineer's report, they didn't think the car had been of unsatisfactory quality when it was supplied to him.

Unhappy with this response, Mr S referred his complaint to us. After looking into what had happened, our investigator didn't agree that the car had been of satisfactory quality when it was supplied. So, she thought it was fair for Mr S to reject the car and receive a refund of the deposit he'd paid.

The investigator thought Zopa should refund the payments Mr S had made for the car since 1 September 2022, when he'd stopped using it. She said Zopa should also reimburse Mr S the £50 he'd paid for the mobile mechanic's report and pay him £100 compensation for the distress and inconvenience he'd been caused.

Mr S accepted our investigator's proposals for how his complaint should be resolved. But he said he felt £100 compensation was minimal for the inconvenience he'd been put to.

Zopa disagreed with our investigator's view. I'll summarise their main points:

- The car was just over eight years old, so it would already be subject to wear and tear. The independent engineer agreed there was a slight knocking noise, but this was considered commensurate with the car's age and mileage. Zopa were not persuaded that this noise was a fault that's severe enough to be deemed unsatisfactory quality.

- Although the diagnostic report dated August 2022 states play was found, this is insufficient for commenting on whether the car had been of satisfactory quality when it was supplied to Mr S. The independent engineer is qualified to comment on such matters and holds an unbiased opinion. A third-party garage is far more likely to find fault in a vehicle, given that they're likely to get business for completing repairs.
- There wasn't enough evidence to say the car wasn't of satisfactory quality when it was supplied to Mr S. A steering rack suffers wear and tear over time. It can break suddenly, for example if the driver goes over a pot hole. The evidence Zopa have seen suggests the car was in Mr S's possession for around three weeks before he reported a problem to the dealer. So, the problem could have occurred after he got it.

Zopa asked for an ombudsman to review the case, so it's been passed to me for a final decision.

My provisional decision

I issued a provisional decision, saying:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr S's complaint is about a car supplied under a hire purchase agreement. Entering into consumer credit contracts like this as a lender is a regulated activity, so I'm satisfied I can look into this complaint.

When considering what's fair and reasonable, I take into account relevant law and regulations. The Consumer Rights Act 2015 (CRA) is relevant to this complaint. It says that under a contract to supply goods, there's an implied term that the quality of those goods is satisfactory. It goes on to explain that things like safety, durability and freedom from minor defects can all be aspects of the quality of goods.

The standard that's applied is whether a reasonable person would consider the quality of the goods to be satisfactory, taking into account the way they were described, the price and all the other relevant circumstances. It seems likely that in a case involving a car, the relevant circumstances a court would take into account might include things like its age, mileage, and history.

In this case, I bear in mind that the car was just over eight years old and had covered around 59,000 miles when it was supplied to Mr S. It cost £18,995. Whilst I appreciate Mr S feels that's a lot of money, I'm aware that it's significantly less than the car would've cost when it was new. I don't think a reasonable person would have the same standards for this car as they would a newer one with less mileage.

I don't think a buyer would expect the car to be in perfect condition - I think they'd probably expect some parts to have suffered a bit of wear and tear. But I think they'd still expect it to be free from anything other than minor faults when it was supplied - and to be able to drive the car for a reasonable amount of time without major issues.

Was there a fault with the car?

Mr S and Zopa have put forward evidence they've obtained, giving very different opinions as to whether the car had a fault that needed repairing. Where evidence is conflicting, as it is here, I have to decide what's most likely.

I've seen a copy of an invoice Mr S obtained from a mobile mechanic, dated 6 August 2022. This reports "play in rack" and advises Mr S to get it replaced or repaired. I've seen no further information as to how severe the mobile mechanic considered this problem to be, or how soon he thought a repair would be needed.

I understand the supplying dealer arranged for the car to be inspected on 31 August 2022. I haven't seen the report of that inspection. The evidence Zopa have provided show they didn't think either that report, or the invoice Mr S had obtained from the mobile mechanic, gave them enough detail to decide how they should deal with Mr S's complaint.

Zopa have provided a more detailed report from an independent engineer, dated 5 October 2022. It records the car to have travelled 60,223 miles by that point. The report says:

"The vehicle does not require any repairs carrying out, there were no faults found with the vehicle."

I can understand Mr S being worried that the noise he'd heard might mean the car wasn't safe to drive, especially as he was intending to take his young children out in it. I've reviewed what the independent engineer's report said about this. It says:

"On jacking the vehicle up at the offside and nearside front, there was no play in the steering rack, no play or wear in any of the steering or suspension components."

"On virtual inspection of the universal joint on the steering column, this showed no play in the points and all appeared to be all in a serviceable condition."

"Before we started the vehicle, we checked the steering column and control for any free play or knocking. A very slight knocking was heard when rocking the steering from side to side. This would be considered normal when the power steering is not operational."

"When rocking the steering wheel with the power assistance operational, there was what appeared to be a slight knocking noise, which was reduced significantly and we could barely hear any noises and this would be considered normal."

Due to the level of detail provided here, I find the independent engineer's report to be more persuasive than the opinion Mr S obtained from the mobile mechanic. I note the independent engineer said there was no play or wear in the steering rack or steering components, and that he considered the slight knocking noise to be normal.

After carefully weighing up the evidence both parties have provided about the steering issue, on balance, I'm not persuaded there's a fault that needs to be repaired. I've considered whether there's any other supporting evidence that might suggest a problem was developing at the time the car was supplied to Mr S.

I've seen evidence showing Mr S signed the finance agreement on 6 July 2022. The MOT history shows the car was MOT-tested the following day; at which time it had covered 59,187 miles. It was recorded to have passed with no advisories. Mr S told us he collected the car three days later, on 10 July 2022.

Advisories show components that have signs of wear but aren't yet defective. Although there aren't any rules about this, I'd generally expect to see an advisory if the MOT tester had found play in the steering components. So, I consider it unlikely that there was play in the steering rack when Mr S collected the car.

I appreciate Mr S paid a lot of money for this car, and I'm sorry to hear he's disappointed with it. But I have to bear in mind that it was just over eight years old when he got it. I don't think a slight noise would mean it wasn't of satisfactory quality.

For the reasons I've explained, I'm not persuaded that the car wasn't of satisfactory quality when it was supplied to Mr S.

I said I didn't intend to uphold Mr S's complaint, based on the information I'd seen so far. I invited both parties to send me any further information or comments they'd like me to consider.

Responses to my provisional decision

Zopa said they accepted my provisional decision and had nothing further to add.

Mr S disagreed. He said the car had covered almost 59,200 miles when he picked it up, and that he'd driven it over 380 miles home from the supplying dealer. He said the dealer had driven it back to their premises, adding further mileage. He provided a photo of the odometer, showing 59,898 miles.

Mr S said he'd never seen a copy of the dealer's report – and that Zopa's report had confirmed the car was still making a knocking noise.

Mr S said that, whilst Zopa were reviewing his complaint, the dealer had readvertised the car for sale for £1,000 more than he'd paid for it. He felt they'd done this to try to cover their costs. He stressed that he'd still been paying for the car. He provided copies of internet reviews about the dealer. He said this showed a lot of people are getting these sorts of problems - and that the dealer needed looking at.

Mr S said the dealer was now attempting to charge him storage fees for the car. He provided further evidence about this. He said the dealer hadn't provided any real proof of the costs they were claiming from him.

Mr S asked about his next steps. He said the car is currently 360 miles away from his home address and he doesn't have another vehicle to get him there. He asked for the car to be delivered back to him with no added costs for him to pay.

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'm grateful to both parties for taking the time to respond to my provisional decision. But I've seen no additional information that persuades me I should change my mind.

Mr S has raised a number of concerns about the supplying dealer's behaviour. But that isn't something the Financial Ombudsman Service can look into for him. Our role is to consider his complaint about Zopa.

As I explained in my provisional decision, I've looked at the record of the MOT test carried out on 7 July 2022. This was three days before Mr S collected the car. As it passed that MOT test with no advisories, I consider it unlikely that a problem was developing in any of the steering components at that time.

The independent engineer's report records the car to have travelled 60,223 miles by the time

it was inspected on 5 October 2022. The engineer said there was still no need for any repair work to the car. Although he noticed a slight knocking noise, he considered it to be normal.

For these reasons, I'm not persuaded that the car had a fault that needed to be repaired.

I've seen evidence showing Zopa advised Mr S to pick the car up from the supplying dealer or he'd be liable to pay storage fees. Our records confirm that he contacted us in November 2022, saying Zopa kept chasing him to collect it.

Although I sympathise with the situation Mr S now finds himself in, I don't think Zopa needed to do anything more here. It wouldn't be fair for me to direct Zopa to deliver the car back to him at no cost.

My final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 22 August 2023.

Corinne Brown
Ombudsman