

The complaint

Mr K complains that the car he acquired through a hire purchase agreement with Oodle Financial Service Limited ("OFS") wasn't of satisfactory quality. He wants to reject the car and be reimbursed for the costs he's incurred.

What happened

Mr K entered a hire purchase agreement in December 2021 to acquire a used car. At the time of the acquisition, the car was around eight years old and had been driven nearly 80,000 miles. Mr K told us:

- he's had a number of issues and faults with the car, the first of which – an electrical one – occurred on the day he collected it; it broke down in January 2022 and again several times in the following months;
- he's spent a significant sum of money on multiple repairs – but they've all failed, and he's also been without the car for lengthy periods of time;
- the dealership acknowledged the problems he'd experienced and had offered to exchange the car for another, but OFS hadn't agreed to a new finance agreement to facilitate this;
- despite being unable to use the car latterly, he's maintained his monthly payments to OFS and continued to keep the car insured;
- he's had to rent another car to remain mobile, and although OFS initially agreed to cover these costs, it's subsequently changed its mind;
- he now wants to reject the car.

OFS didn't uphold this complaint. It said it had instructed an independent inspection of the vehicle in August 2022, and the third party had said that although the car was no longer roadworthy, it didn't think the fault would've been present or developing at the time of supply. It said that electrical faults of this nature – failure of the body control module – occur suddenly and without warning, and that a failure of this nature would not be considered unusual in a car of this age.

Our investigator looked at this complaint and said initially that he didn't think it should be upheld. He explained the relevance of the Consumer Rights Act 2015 in this particular case, and said he was persuaded by the contents of the independent report; the fault with the car was simply a result of wear and tear – Mr K had been able to drive nearly 10,000 miles, and the electrical issues couldn't be classified as premature failure.

Mr K disagreed and said he'd obtain further independent evidence to support his position. And he provided evidence from a local dealership – an authorised dealer for this make of car – together with a further independent report from a third party.

The evidence from the dealership showed that more than two years *before* Mr K acquired this car, a previous owner had reported the exact same fault. And it confirmed that the repairs undertaken at the time appear to have failed to remedy the issue. It went on to confirm that it had identified further wiring faults and electrical issues that it said were

“*lifetime parts of the car*” – not wear and tear issues. And it said the issue was a known issue with this car manufacturer.

The independent report undertaken by the third party identified 46 electrical fault codes, but it initially concluded that these could develop instantaneously and without warning. And because of this, it wouldn’t ordinarily have considered these types of faults to be present at the point of supply. But it did consider the faults to be the result of previous unsuccessful repairs; specifically, that the faults addressed in December 2019 – two years *before* Mr K acquired the car – are connected to the faults it identified in its inspection in June 2023.

OFS accepted that position but said it had not had the opportunity of one repair since the inception of the Hire Purchase agreement – something to which it said it was entitled. And it noted the mileage driven by Mr K.

Our investigator looked again at all the evidence and testimony from all parties and said he thought the complaint should be upheld. He acknowledged OFS’ point about having the opportunity to repair the car, but he emphasised the point that the car acquired by Mr K clearly had an issue of durability, and the evidence supported this. Put simply, despite numerous repairs, a fault that pre-dated Mr K’s acquisition of the car was still present nearly four years later. And he set out what he thought OFS should do to put things right.

OFS accepted our investigator’s opinion insofar as it agreed that rejection of the car would be the fair resolution in this case. But it didn’t agree with all the compensation it was being asked to pay; specifically repair costs and car rental costs incurred by Mr K. Because of this, the complaint comes 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.

As the hire purchase agreement entered into by Mr K is a regulated consumer credit agreement this Service is able to consider complaints relating to it. OFS is also the supplier of the goods under this type of agreement, and it is responsible for a complaint about their quality.

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. This says under a contract to supply goods, the supplier – OFS in this case – has a responsibility to make sure the goods were of ‘satisfactory quality’.

Satisfactory quality is what a reasonable person would expect – taking into account any relevant factors. The relevant law also says that the quality of the goods includes their general state and condition, and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability can be aspects of the quality of the goods. In this case, I would consider relevant factors to include, amongst others, the car’s age, price, description and mileage.

The CRA also says that, where a fault is identified within the first six months, it’s assumed the fault was present when the car was supplied. But, if the fault is identified after the first six months, then it’s for Mr K to prove the fault was present when he first acquired it.

Both parties accept that the fair way to settle this complaint is to permit Mr K to reject the car. OFS acknowledges and accepts the faults experienced by Mr K and it accepts his right

to reject the car. Because of this, I don't need to make any findings about whether the car was of satisfactory quality when supplied.

The parties do not agree entirely on the redress that should be paid, so this is the focus of my decision.

I've considered very carefully the comments from both parties, and I've looked closely at the receipts and very detailed testimony from Mr K detailing the issues he experienced with the car and the repairs he had to arrange; the resultant costs of that work; and the other consequential costs he's incurred.

OFS says the repairs and modification made by Mr K aren't costs that it should refund. It says these repairs were carried out without its permission or notification. I've considered this point very carefully, but I have to tell OFS that I don't agree. In view of the fault and the resultant problems experienced with this car from the outset, and the fact that some of the initial repairs failed to remedy the issue, Mr K would've been within his rights to reject the car. Had this happened at the outset, Mr K would not have needed to spend any money on repairs to the car. And these *temporary* repairs did mean that Mr K had some use of the car – around 10,000 miles – something I've taken into consideration. So, I think it's fair for the compensation to take both these things into account.

At some point, the car was no longer driveable, I don't think it was unreasonable for Mr K to avail himself of a rental car to ensure he remained mobile. He continued to pay his monthly payments to OFS, but the car he'd acquired under that agreement was not usable. It's my view that he shouldn't have to pay for two cars when he was only able to use one. So, I think the compensation awarded needs to take this into account.

Mr K said he'd bought another car and he wanted OFS to pay for that as well. I don't think that is reasonable. It was his choice to buy an additional car, but unlike the car he hired, it's an asset that he was able to retain or re-sell.

I've also taken into account the extra cost Mr K incurred in obtaining the critical independent report that proved so crucial in this particular case. And I think it's only fair that this moderate cost is returned to him. The complaint turned on that evidence, and without that report I can't be certain we'd have reached the agreed outcome that we have.

Taking everything in the round, I'm satisfied that the redress suggested by our investigator is both fair and reasonable in the circumstances of this complaint, and I'm going to direct OFS to compensate Mr K accordingly.

Putting things right

In addition to the redress agreed by Oodle Financial Service Limited, I'm directing it to compensate Mr K for the costs incurred by him in repairing the car; having to rent another car; and having to obtain an independent report.

My final decision

My final decision is that I uphold this complaint. If it has not already done so, I direct Oodle Financial Service Limited to:

- Cancel the agreement with nothing further to pay and provide confirmation of this to Mr K.
- Remove all adverse information from Mr K's credit file in relation to this credit agreement.

- Refund Mr K his monthly rentals made under this hire purchase agreement, with a deduction in respect of fair usage – this is to equate to one monthly rental per 1,000 miles of usage he's travelled.
- Refund Mr K's expenses on trying to repair the faults and diagnose the issues. These costs amount to £1,109.70.
- Refund the hire-cars rentals Mr K had to pay for in 2022, when his car was undriveable. These costs amount to £3,530.52.
- Reimburse Mr K for the cost of the independent report he had to commission. The cost of this report was £264.00.
- pay 8% simple interest on all refunded amounts calculated from 4 October 2022 until the date of settlement.
- Pay £300 compensation to Mr K to address the distress and inconvenience he's suffered in the circumstances of the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 10 November 2023.

Andrew Macnamara
Ombudsman