

The complaint

Mr M complains about the quality of a car he has been financing through an agreement with Creation Consumer Finance Ltd, who I'll call Creation.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead, I'll focus on giving my reasons for my 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.

I know it will disappoint Creation, but I agree with the investigator's opinion. I'll explain why.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Mr M acquired his car under a hire purchase agreement. This is a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

The Consumer Rights Act (2015) is the relevant legislation. It says that the car should have been of satisfactory quality when supplied. If it wasn't then Creation, who are also the supplier of the car, are responsible. The relevant law also says the quality of goods is satisfactory if they 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 like this which involves a car the other relevant circumstances would include things like the age and mileage at the time the car was supplied to Mr M. The car here had already completed about 28,000 miles and was about four years old.

An old car with a high mileage will not be expected to be as good as a newer car with a low mileage, but it should still be fit for use on the road, in a condition that reflects its age and price.

The relevant legislation explains that if the fault occurs within the first six months we are to assume it was present at the point of supply, when Creation were responsible for the car's quality, unless they can demonstrate otherwise. Mr M reported a fault with the clutch after he'd been in receipt of the car for only a few days. I'm persuaded that fault was likely to have been present when he collected the car, and I can't see that the business disputed that as

they completed the necessary repairs.

The relevant legislation gives the business one opportunity to repair faults that are present when goods are supplied. In April 2023, only about two months after Mr M had taken charge of the car, a further fault was reported by him. This was eventually diagnosed as a drive belt/pulley issue. The fault has been corroborated by another garage and an independent inspection. While the independent inspector suggested it was unlikely that the fault was present when the car was supplied I don't think that's the most likely scenario. I say that because Mr M had reported the issue in April 2023 and the inspection didn't take place until August 2023. Mr M had also been without the car for about three weeks prior to reporting the fault, as the car had been in the garage being repaired. I think there was, therefore, limited time in which this subsequent fault could have developed, and it was more likely than not that the subsequent fault was also developing at the point of supply.

In those circumstances I would agree with our investigator's opinion, that this car should now be rejected.

Putting things right

Creation should collect the car at no cost to Mr M and they should end the finance agreement.

They'll need to refund any deposit Mr M has paid and, as he's been deprived of that money, they will need to add interest to that refund.

Mr M has had to commission a reports on the car's condition in order to support his claim. I think those costs have been incurred as a consequence of the car being of unsatisfactory quality. So, Creation should refund the cost of those reports on provision of receipts from Mr M. They should add interest to that refund too.

Mr M has been inconvenienced by these issues. He's had to take the car back to the dealership and has had to arrange a diagnostic. He's also had to escalate his complaint to this service when I think it could have been resolved earlier. In those circumstances Creation should pay him £100 compensation for the distress and inconvenience he's experienced.

Mr M hasn't been able to use the car since May 2023 so Creation should refund any monthly payments made since then in respect of his lack of use of the car. They should add interest to the refund.

My final decision

For the reasons I've given above I uphold this complaint and tell Creation Consumer Finance Ltd to:

- Allow Mr M to reject the car and end the finance agreement.
- Collect the car at no cost to Mr M.
- Refund any deposit that has been paid and add 8% simple interest* per year from the date of payment to the date of settlement.
- Refund the cost of Mr M's diagnostic reports on provision of receipts and add 8% simple interest* per year from the date of payment to the date of settlement.
- Pay Mr M £100 to compensate him for the distress and inconvenience he's

experienced.

- Remove any adverse reports they may have made to Mr M's credit file in relation to this issue.

*If HM Revenue & Customs requires the business to take off tax from this interest they must give the consumer a certificate showing how much tax it's taken off if the consumer asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 5 December 2023.

Phillip McMahon
Ombudsman