

The complaint

Ms W complains about a car she acquired under a hire purchase agreement with Go Car Credit Limited ("GCC").

What happened

In January 2023 Ms W entered into a regulated hire purchase agreement with GCC in relation to a used car. In March, April or May 2023 (there is a dispute about precisely when, but it is agreed that it was in that period), Ms W reported a fault with the gearbox. As the car was under warranty, the dealership referred her to the warranty company, but Ms W says that company never got back to her or did anything to help her, so in May she appealed to GCC. Meanwhile, she stopped driving the car, to avoid drive-on damage.

GCC raised the matter with the dealership, and told Ms W to instruct another garage to inspect the car and prepare a report. That report confirmed that there was a problem with the gearbox, and that the fault had likely been present for several months. In July, GCC told Ms W that the dealership would repair the car for free. But by then, Ms W had already had enough; as early as May and June she had been telling GCC that she wanted to reject the car. She did not want it to be repaired. As GCC considered that it was legally entitled to one attempt to repair the car before Ms W was entitled to exercise her right to reject it, it did not agree to that. So the parties reached an impasse, and Ms W brought this complaint to our service.

Our investigator upheld this complaint, although he did not agree that Ms W had the right to reject the car. He said that from Ms W raising the matter with GCC to GCC telling her that the car would be repaired was about five weeks, and he thought that was not an unreasonable time (especially as Ms W had been abroad for one of those weeks and GCC had been unable to contact her). But he agreed that the car had not been of satisfactory quality when it was delivered to her. So he recommended that GCC arrange to repair the car at no cost to Ms W, refund her monthly payments from May 2023 to reflect the fact that she had not had use of the car, with interest on the refunds, and pay her £150 for her inconvenience. He also recommended that GCC remove the arrears from her credit file (as Ms W had been in arrears since June).

Ms W did not accept that opinion. She said that it had taken too long for GCC or the dealership to agree to repair the car, and she pointed to GCC's letter in July saying that after eight weeks, it still needed more time to resolve her complaint ("the holding letter"). She said a repair should have been carried out without delay and without causing her inconvenience. She asked for an ombudsman to review her case and to recognise her right to reject the car.

I wrote a provisional decision which read as follows.

What I've provisionally 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 am minded to uphold this complaint in part, but to award less compensation than my colleague recommended. And I do not agree that Ms W has the right to reject the car.

Before I explain why, I will briefly say why I am upholding this complaint. It is for the same reason as the investigator. There is clear evidence that the gearbox is faulty, and that it was already faulty when the car was delivered to Ms W. Although the car was over seven years old at the time, and had been driven 60,000 miles, I would still expect it to be in a driveable condition at the point of sale. So I am satisfied that the car was not of satisfactory quality when it was delivered to Ms W, and that this was a breach of contract. (I don't think that is actually in dispute, but I have written this paragraph just in case I am mistaken about that.)

I now turn to what should happen to put things right.

The relevant law is set out in the Consumer Rights Act 2015. I won't go through it section by section, but in summary, GCC had the right to one attempt to repair the car, and Ms W could not reject the car until GCC had had the opportunity to repair it. However, GCC's right to repair was not absolute: the repair had to be carried out within a reasonable time and without significant inconvenience to Ms W. So I need to see how long it took for GCC to arrange for that to happen, even though Ms W rejected that solution.

I do not need to decide when Ms W first approached the dealership about the matter. This complaint is not against the dealership (or the warranty company) but against GCC, so it is enough for me to say that she first approached GCC in late May. I think it was reasonable of GCC to ask for evidence about the fault. The independent report is undated, but I have seen an entry in GCC's contact notes that the car was taken to the garage to be inspected on 27 June.

It seems that GCC had arranged for the dealership to repair the car by the first half of July. It is not clear to me on precisely which date GCC told Ms W that, but it appears to have been at some point between 5 and 13 July. That is six to seven weeks after Ms W first approached GCC, and one or two weeks after the car was taken to the garage to be inspected.

The holding letter is dated 19 July, and it says that eight weeks after Ms W raised her complaint, GCC has not yet been able to resolve the matter and will need some more time. However, that letter needs to be understood in the context of GCC having already told Ms W that the car would be repaired for free, and that she had refused to accept that remedy and had insisted on rejecting the car instead. So I don't think that letter means that GCC had not yet arranged for the car to be repaired; rather, it was only a letter about the fact that a remedy had been offered but not agreed to. (When GCC sent Ms W its final response to her complaint, it said that as she had declined the offer to fix the car free of charge, it had closed her complaint.)

So I find that GCC offered to repair the car free of charge within a fortnight of receiving evidence that there was a fault for which it was responsible. I think that is a reasonable time, and so GCC did have – and still has – the right to one attempt to repair the car.

(GCC is still willing to do that, so I don't technically need to order it to, but I will anyway just to avoid any doubt.)

Because Ms W had a car she couldn't drive between May and July, I will require GCC to refund her the three monthly payments she made in that period. And I will award her £150

for her inconvenience. But I don't think it would be fair of me to order GCC to refund any further payments, because Ms W would have had a driveable car if she had let GCC fix it.

I also do not intend to order GCC to remove the arrears from Ms W's credit file. The fact that the car was not driveable did not mean that she no longer had to make her monthly payments. GCC has an obligation to report an accurate payment history to the credit reference agencies, and so I have no basis for telling to change that information.

My provisional decision

So my provisional decision is that I intend to uphold this complaint. Subject to any further representations I receive from the parties by [3 April 2023], I intend to order Go Car Credit Limited to:

- Repair the car at no cost to Ms W;
- Refund the three monthly payments Ms W made in May, June and July 2023;
- Pay interest on each of those refunds at 8% a year from the dates of payment to the date of settlement; and
- Pay Ms W £150.

Responses to my provisional decision

GCC accepted my provisional decision. Ms W did not reply. So there is no reason for me to change my provisional findings, and I confirm them here.

My final decision

My decision is that I uphold this complaint. I order Go Car Credit Limited to:

- Repair the car at no cost to Ms W;
- Refund the three monthly payments Ms W made in May, June and July 2023;
- Pay interest on each of those refunds at 8% a year from the dates of payment to the date of settlement; and
- Pay Ms W £150.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 1 May 2024.

Richard Wood
Ombudsman