

The complaint

Mrs B is unhappy with the quality of the truck she acquired under a hire purchase agreement with Oodle Financial Services Limited trading as Oodle Car Finance (Oodle).

When I refer to what Mrs B and Oodle have said, it should also be taken to include things said on their behalf.

What happened

In June 2022, Mrs B entered into a hire purchase agreement with Oodle to acquire a used truck, first registered in July 2017. At this time the truck had travelled about 66,123 miles. The cash price of the truck was around £19,995 and the total amount payable was approximately £29,133. The duration of the agreement was set at 60 months, consisting of first payment of about £534, followed by 58 monthly payments of around £484, and then a final payment (which included a payment of the option to purchase fee) of about £534.

Mrs B said that in December 2022, she had a reason to use the truck's 4x4 function for the first time due to adverse weather. And that when she did that, the truck started behaving strangely, had slipped into diff lock, and there was a very strong smell almost like natural gas. Mrs B said she had the truck inspected at her home as she did not feel safe driving it. The mechanic said that the motor on the 4x4 function must be faulty, so she ordered one from the manufacturer. Mrs B said that the mechanic told her that he had trouble fitting the part as the transfer box had been stripped and worked on before, prior to her owning the truck. So, the mechanic concluded that the truck would require a new transfer box. Mrs B said that this was also confirmed by the truck manufacturer's approved garage, who, she said, indicated that this would cost in the region of £5,000 to £8,000.

In March 2023, Mrs B raised this issue with Oodle, who asked her to get an independent report. The report was done in April 2023. At that time the truck had travelled approximately 79,878 miles. The independent report said that *"At the time of inspection there was insufficient evidence noted to confirm that the symptoms were present or in the development stage at the point of sale, and further diagnostics will be required to confirm the exact cause of the symptoms. Only at that point would we be able to determine if there is an underlying condition at the point of sale."* As the independent report was not able to gather all the information needed without taking the gearbox apart, Mrs B sent it to the truck's manufacturer dealership, who she said also concluded that the transfer box had been worked on previously. Mrs B has also said that this dealership informed her that the truck's service interval had also been changed to parameters outside of the manufacturer specified service schedule.

In April 2023, Oodle responded to Mrs B's complaint about the quality of the truck. In summary, they said that, as they have not received any evidence that the issues with the truck were present or developing at the point of sale, they are unable to uphold Mrs B's complaint.

Mrs B was not happy with their response, so she referred her complaint to our service.

She later also took the truck to its manufacturer's approved garage, who recommended that the transfer box be replaced. Mrs B said that she was unable to have new parts fitted due to the cost, so she said she had the truck fixed with second hand parts.

Our investigator thought there was enough information to say that, on the balance of probabilities, the truck was not of satisfactory quality when it was supplied to Mrs B – particularly, that it was not reasonably durable. The investigators thought that Mrs B should be refunded the expenses she incurred plus be paid £200 compensation for the distress and inconvenience caused.

Oodle did not agree with the investigator's opinion.

Mrs B also did not agree as she thought that she should be due more compensation.

So, the complaint has been passed to me to make a final 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.

In considering what is fair and reasonable, I need to take into account the relevant rules, guidance, the law, and, where appropriate, what would be considered to have been good industry practice at the relevant time. Mrs B acquired the truck under a hire purchase agreement, which is a regulated consumer credit agreement. Our service can look at these sorts of agreements.

Oodle is the supplier of goods under this hire purchase agreement and is responsible for dealing with complaints about their quality. The Consumer Rights Act 2015 (CRA) covers agreements such as the one Mrs B entered into. Under the agreement, there is an implied term that the goods supplied will be of satisfactory quality. The CRA says that goods will be considered of satisfactory quality where they meet the standard that a reasonable person would consider satisfactory – taking into account the description of the goods, the price paid, and other relevant circumstances. I think in this case those relevant circumstances include, but are not limited to, the age and mileage of the truck and its cash price. The CRA 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.

In Mrs B's case the truck was used, with a cash price of around £19,995. It had covered about 66,123 miles and it was approximately five years old when she acquired it. So, the truck had travelled a reasonable distance and it is reasonable to expect there to be some wear to it as a result, and I would have different expectations of it compared to a brand-new truck. As with any truck, there is an expectation that there will be ongoing maintenance and upkeep costs. There are parts that will naturally wear over time, and it is reasonable to expect these to be replaced. And with second-hand trucks, it is more likely that parts will need to be replaced sooner or be worn faster than with a brand-new truck. So Oodle would not be responsible for anything that was due to normal wear and tear whilst in Mrs B's possession. But given the age, the mileage and, in particular, the price paid, I think it is fair to say that a reasonable person would not expect anything significant to be wrong shortly after it was acquired.

There is no dispute that there is a fault with the truck. But Oodle said that the independent inspection determined that the fault was not present or developing at the point of sale. They said that at inception the mileage was 66,123 miles and in March 2023, when the

independent report was arranged, the mileage was 79,878 miles. They said that within 10 months the truck has driven 13,755 miles, so they estimated it would have travelled around 9,600 miles since the point of sale, that is from June 2022 until December 2022. So, they believe that, if there was an issue with the transfer box at the point of sale, the truck would not have covered over 9,000 miles in about six to seven months.

I've taken the above into consideration, but I also considered that the independent report also said that "... *further diagnostics will be required to confirm the exact cause of the symptoms. Only at that point would we be able to determine if there is an underlying condition at the point of sale.*" So, this statement weakens the conclusions of the independent report. And I think it is also reasonable to take into account the nature of the problem and whether it is fair to say the truck was reasonably durable.

Considering the above, combined with the age and mileage of the truck, I think that a reasonable person would not expect for the truck to need a transfer box to be replaced and to have such a big expense so soon. Mrs B only had the truck for approximately six months, and it was not until she engaged the 4x4 function for the first time, that she realised that there was an issue. I understand that a transfer box should last the life of a truck, as long as there is not a leak, where the transfer oil gets low causing wear. I have not seen evidence to indicate that most likely there was a leak to the transfer box (which has also been confirmed by the independent report done in April 2023). Also, I think needing a transfer box to be replaced is a significant problem to arise, and it can be very expensive to put right. Given the age, mileage of the truck, and the price paid, I do not think this was a cost a reasonable person would expect to bear, or a fault that would be expected to arise in the time frame Mrs B has had the truck. So, I do not think the truck was sufficiently durable. For this reason, I do not think the truck was of satisfactory quality.

Oodle also said that, even though there is no evidence of customer neglect, or operation of the truck that departed from the manufacturer's guidelines, there is also no evidence that the fault was present at the point of supply and that Mrs B was able to do around 9,600 miles in six months. And Oodle feels that, as they were not made aware of the issue when it happened in December 2022, they did not have any knowledge of, and therefore the ability to authorise the repairs at that time, so they do not think that they should be held liable for the reimbursement of the costs.

Mrs B's third-party garage, that looked at the truck in December 2022, said that the transfer case looked like it had work done on it before. So, on balance, there could have been a previous repair on the transfer box before Mrs B took possession of the truck, and that it had failed when Mrs B used the 4x4 function for the first time. Also, I've seen no evidence to indicate that there was a user error when using the transfer box, or that the truck was not maintained by Mrs B, so overall I cannot say that this was most likely the reason for the fault on the truck. And yes, I agree that Mrs B should have first made the supplying dealership, or Oodle, aware of the issues before having the first repair attempted by a third-party garage. But considering all the circumstances of this particular case, I do not think it would be fair or reasonable for Oodle not to be responsible for these repairs. Mrs B told us that she did not feel comfortable driving the truck once the fault occurred in December 2022, so that is why she arranged for the truck to be inspected at her home. I think she acted reasonably to try to resolve the issue once she became aware of it, and when she realised the magnitude of the fault, it was not unreasonable for her to then raise this with Oodle. Regarding the mileage travelled, as I mentioned it is not unreasonable that the issue only became apparent when it did, as that was the first time Mrs B engaged the 4x4 function due to the weather conditions. As the truck was functioning fine without the 4x4 function, this did not stop her from covering such high mileage before realising that there was a fault with the 4x4 function. And, had Oodle provided Mrs B with a truck that was of satisfactory quality, then she would not have

incurred this cost, so overall taking all of the above into consideration it is not unreasonable that they should be responsible for this cost.

Another argument that Oodle raised was that, when they shared the diagnosis and invoices with the independent report company, they were informed that the control module can fail suddenly and without warning and therefore would not be the sales agent's responsibility on a truck that had covered over 10,000 miles since the date of inception.

I have considered this, but the independent inspection, in the conclusion section, had said that further diagnostics would be required to ascertain if the transfer box has failed internally causing the module to fail, or if only a module is required.

And when Mrs B's third-party garage replaced the motor, this replacement did not resolve the fault, so it was recommended that Mrs B replaces the transfer box. Another garage carried out a diagnostic and said that the control module was burnt out, but their report states they would need to remove the transfer box to access the internal failure. And when the repair was completed in June 2023, no repairs were completed to the control module and the issue was resolved by the replacement of the transfer box. So, I think most likely the fault was with the gears on the transfer box rather than with an electrical component.

I already said above why I think that the truck, including its transfer box, was not sufficiently durable and that is why I think the truck was of unsatisfactory quality when supplied. But even if my conclusion on durability was different, I still would not think that the truck was of satisfactory quality when supplied. I say this because Mrs B's third-party garage, that looked at the truck in December 2022, said that the transfer case looked like it had work done on it before. They said this was because there were "*tipex marks inside so something has been done on it before*". So, I've considered that, on balance, there could have been a previous repair on the transfer box before Mrs B took possession of the truck, and that it had failed when Mrs B used the 4x4 function for the first time. Mrs B's testimony has been consistent, so I think most likely the first time Mrs B used the 4x4 mode was in December 2022 due to adverse weather at that time, and that is why she was able to cover such a high number of miles before realising that there was an issue with the transfer box. The transfer box also does not require maintenance and as there was no evidence of a leak, I think the fault with the transfer box was most likely present or developing at the point of sale.

Mrs B would not be entitled to rejection or replacement of the truck as the repairs have taken place which seem to have fixed the fault in question. But, since the truck was of unsatisfactory quality when supplied, Oodle should pay for the repairs done to the truck.

Mrs B has provided an invoice, dated 5 June 2023, that had a total cost of the repairs showing as £1,056.24. This included the cost of other servicing done at the same time for things such as new brakes, oil change, plus an MOT. Some of those items are general maintenance, so Oodle is not responsible to pay for these, but they should refund £531.60 as this was the cost for removing the old transfer box and fitting the second hand unit that Mrs B purchased. The second-hand unit Mrs B acquired for £450 on 30 May 2023, so Oodle should also provide her a refund for this. They should also reimburse her the £200 for the work completed by her third-party garage – Mrs B paid this on 9 March 2023. And £414 for the extensive diagnostic completed by another garage that she paid on 17 April 2023. Plus, they should refund Mrs B the amount it cost her to transport the truck: she paid £168 on 11 May 2023, and whatever other tow expense she had, on provision of receipts. Oodle should also refund her £195 she paid on 23 March 2023 for the independent inspection. I think it is only fair that Oodle refund her all of the above costs I mentioned, as I do not think she would have incurred these had they supplied her with a truck of satisfactory quality.

As the truck was not of satisfactory quality, Mrs B has not had access to it from 7 March 2023 to 5 June 2023 and was not provided with a courtesy truck. So, I think it is only fair that she receives a refund for the payments she has made during that period.

Mrs B has also told us how all this has had an impact on her loss of earnings and the impact it had on her family, so I would like to express my considerable sympathy for the position Mrs B is in. I know this has been a very difficult time for her. And I've considered this, but in this decision, I can only consider the impact this had on her. And overall, I've not seen enough evidence for me to conclude that the truck's faults, for which Oodle is responsible for, were most likely the reason for Mrs B's direct loss of earnings, and as such for her directly incurring a loss. But I have considered that this matter has caused Mrs B distress and inconvenience while she was trying to resolve it. Mrs B has understandably gone through a degree of inconvenience and stress while she was without the truck, including arranging to have it inspected and later transported when the transfer box failed. So, considering the circumstances, I think it is fair that Oodle pay her £200 compensation for the distress and inconvenience caused.

My final decision

For the reasons given above, I uphold this complaint and direct Oodle Financial Services Limited trading as Oodle Car Finance to:

1. Refund £531.60 - the cost for removing the old transfer box and fitting the second hand unit that she paid on 5 June 2023;
2. Refund £450 - the cost of the transfer box that Mrs B acquired on 30 May 2023;
3. Refund £200 - for the work completed by her third-party garage that was paid on 9 March 2023;
4. Refund £414 - for the extensive diagnostic completed by another garage that Mrs B paid on 17 April 2023;
5. Refund £168 - the cost to transport the truck that Mrs B paid on 11 May 2023;
6. Refund Mrs B the amount of other tow expenses on provision of receipts;
7. Refund £195 for the independent inspection that Mrs B paid on 23 March 2023;
8. 8% simple interest per year should be added to all the refunded amounts from the date of payment to the date of settlement;
9. Pay Mrs B £200 compensation for the distress and inconvenience caused;
10. Remove any adverse information that may have been recorded on Mrs B's credit file;

If Oodle Financial Services Limited trading as Oodle Car Finance thinks tax should be deducted from the interest element of my award, then they should provide Mrs B with a tax deduction certificate so she can reclaim it, if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 16 April 2024.

Mike Kozbial
Ombudsman