

The complaint

Mr A complains that the car he acquired through a hire purchase agreement with Oodle Financial Services Limited wasn't of satisfactory quality. He wanted the costs he has been quoted for repair to be deducted from his agreement.

Mr A is represented by a third party but for ease of reference I have referred to Mr A throughout this decision.

What happened

Mr A entered into a hire purchase agreement with Oodle FS in April 2022. He paid a £25,000 deposit and was required to make 60 monthly repayments of around £990. At the time of acquisition, the car was almost 13 years old and had been driven over 63,000 miles. Mr A says that he noticed issues with the car on the day of collection which he raised with the dealer. He raised a complaint with Oodle FS in May 2022 and then said he was having the car inspected for the issues to be diagnosed and costed.

Mr A explained that he booked a new key request, and his car was collected on 26 April 2022. A new key fob was provided, and a general check undertaken. In this it was noted that the brake pads were worn even though Mr A says he paid for new brake pads and discs as part of the acquisition of the car and an oil spillage was noticed. A second vehicle health check was booked as a result of this. On 2 May 2022, Mr A took his car for a car wash and says that following this, scratches to the paintwork became visible which he believed had been covered with silicon before supply to prevent Mr A noticing these. A full vehicle health check was carried out on 12 May which noted several issues, including a cracked convertible roof frame. The rear windscreen then exploded which Mr A says was due to the previously identified defect with the roof frame.

Mr A said he was only happy for the repairs to be undertaken by the manufacturer's dealer that he had received the quotes from. These totalled around £53,000 and he wanted this amount deducted from his agreement.

Oodle FS issued a final response letter dated 11 August 2022. It noted Mr A's request for the repair costs to be deducted but thought these were excessive. It arranged for an independent inspection of the car to be undertaken. This reported the vehicle's overall condition was satisfactory for a vehicle of its age and mileage but did state that some remedial repairs were needed and specifically mentioned the roof window. It noted the issue with the roof window occurred after supply and said this could account for the cracking of the roof bracket but that further investigation would be needed. It said it couldn't state whether the sales agent should be responsible for the rectification of the roof. It thought the suspension met the minimum MOT requirements and although there were issues with some of the internal electrical systems these were not critical and didn't prevent the car meeting MOT standards.

Oodle FS said that the dealer had offered to carry out the repairs identified in the independent inspection report and provide a courtesy car, or it would accept the rejection of the car. It didn't accept that £53,000 could be deducted from Mr A's agreement. Oodle FS

also said that Mr A had received three months of payment refunds to assist with costs of a hire vehicle.

Our investigator didn't think that Oodle FS was required to use the specific garage that Mr A had requested, and he didn't think it was required to reduce Mr A's agreement by the quote for the repairs. He noted that Mr A had been refunded three monthly repayments and he thought the resolutions offered by Oodle FS were reasonable. Because of this he didn't uphold this complaint.

Our investigator also noted that during the investigation to Mr A's complaint he had advised that he continued to drive the car which then broke down and became undriveable. He also said he incurred a charge for a warranty that wasn't disclosed. Our investigator explained that as these issues were not part of Mr A's original complaint, they would need to be raised separately for Oodle FS to consider first before being referred to this service if Mr A wasn't happy with the outcome.

Mr A didn't agree with our investigator's view. He reiterated that the car had broken down and said that Oodle FS wouldn't consider this new part of his complaint until this initial complaint had been addressed.

My provisional conclusions dated 11 May 2023

I issued a provisional decision on this complaint dated 11 May 2023. The details of which are set out below.

Mr A acquired a used car through a hire purchase agreement in April 2022. Under the regulations, specifically the Consumer Rights Act 2015, Oodle FS can be held liable if the car supplied wasn't of satisfactory quality. Satisfactory quality considers factors such as the age and mileage of the car. At the time of acquisition, the car was 13 years old and had been driven over 63,000 miles. I note various modifications were undertaken to the car before Mr A received it. Given the age and mileage of the car it is reasonable to accept that it would have suffered some wear and tear. That said, when assessing satisfactory quality, it would be expected that the car was reasonably durable.

Mr A raised issues with the dealer on the day he collected the car. A vehicle check was carried out on 12 May which recorded a list of issues. This shows that there were faults with the car at the time. Oodle FS instructed an independent inspection to take place. I appreciate the comments Mr A has made about this inspection report and why he feels more reliance should be placed on the vehicle check report and the quote for repairs he has provided. But I have taken all the evidence into account. The independent inspection report stated that the vehicle's overall condition was satisfactory but that some remedial repairs were needed, specifically noting the roof. While there are notable differences in the outcomes of the report in terms of what the issues were both confirm that there were issues with the car at the time of inspection.

I note the comments in the independent inspection report about it not being clear whether the issue with the roof was the responsibility of the sales agent and I appreciate there isn't clear evidence to state whether certain issues were due to faults that were present at the point of supply. But, given when the issues were first noted and that several issues were then confirmed by inspections within a few weeks of Mr A having the car, I find on balance it is reasonable to accept that there were faults with the car which were mostly present or developing from the point of supply. Because of this I do not find the car was of satisfactory quality.

While Oodle FS didn't uphold Mr A's complaint, it said that the dealer would carry out the repairs noted in the independent inspection report and that it would support the rejection of the car. I appreciate Mr A wants repairs to be undertaken by a specific dealer and I can understand why he would want a specialist to carry out the repairs. But I cannot say the dealer Mr A has used is the only one which could undertake the work to a reasonable standard and so I do not find that Oodle FS or the dealer are wrong to say that the repairs could be undertaken elsewhere. That said I have looked through the text messages and other communications between Mr A and the dealer and it does appear that the relationship has broken down. And given the possible costs of the repairs, in this case I am not convinced that repair is the most suitable remedy.

In circumstances where a car isn't of satisfactory quality, a remedy can be for the car to be rejected. While I appreciate that Mr A may wish to keep the car, I do not find that his request for £53,000 to be taken from his agreement is reasonable. As the relationship between Mr A and the dealer appears to have broken down and the costs of repair could be uneconomical, I think the fairest resolution to this complaint is for Mr A to be allowed to reject the car.

Mr A has said he hasn't been able to use the car from 30 September 2022. I note that he has been refunded three monthly payments as a gesture of goodwill. In the event Mr A can confirm that no use has been made of the car from 30 September 2022 I think it reasonable he is refunded any payments made from this date (less the refunds already made).

Being provided with a car that wasn't of satisfactory quality has caused Mr A distress and inconvenience. I can see that options were provided to him for repair, but he has had to spend time getting quotes for work and has had to pay for a car that more recently hasn't been able to be used. Because of the inconvenience he has been caused, I think Oodle FS should pay Mr A £250 compensation.

The redress set out in my provisional decision was as follows:

- *Collect the car at no cost to Mr A.*
- *Cancel the agreement with no further costs to Mr A*
- *Refund Mr A his repayments from 30 September 2022 less the refunds already made and subject to evidence being provided to show the car wasn't able to be driven from this time (a current mileage would give an indication of this).*
- *Pay Mr A £250 compensation for the inconvenience he has been caused.*
- *Remove any adverse information that may have been recorded on Mr A's credit file in regard to this agreement.*

Following the issuing of my provisional decision, the parties were contacted to explain the redress should also include the refund of Mr A's deposit along with interest from the date of payment to the date of settlement.

Following my provisional decision dated 11 May 2023 further information was provided and further discussions took place between the parties involved. I therefore issued a second provisional decision to allow the parties a chance to provide any final comments on the various issues raised.

Correspondence provided following the provisional decision dated 11 May 2023

On 15 June 2023, Mr A contacted this service to say he accepted the provisional decision, and the car should be collected from the garage. He provided the following list of refunds he believed he was due:

1. £25,000 (40% deposit) for the vehicle
2. £7,278.63 for the hood fabric (broken rear window) replacement plus VAT - £1,455.73 (VAT not applied)
3. £250 FOS compensation (for stress and inconvenience)
4. £8,446.86 instalments (excludes the three payments received whilst vehicle in use)
5. Settlement for the repairs undertaken to allow diagnostic tests. Invoice sent directly to Oodle from the garage.
6. Settlement of £1,000 for the cost of the diagnostics report dated May 2022 agreed with Oodle in June 2022, also confirmed, and agreed with Oodle in June 2023.

Total Amount: £41,975.46

Oodle FS provided information from the dealership including the information previously provided of the offers made to Mr A in June 2022 regarding inspection and repair or the return of the car. It provided a summary of the offers it had made in the preceding months.

These are summarised below:

1. an independent assessor to be organised for a fair wear and tear inspection to the vehicle. Depending on the outcome of the assessment should any rectification work be required, the vehicle would be returned to the dealership for works to be completed, then re-inspected and signed off by the independent assessor. It said it was agreed that main dealerships are not the most suited organisations for this type of work to a specialist vehicle.
2. unwind the sale but no refund for the £8,229 spent on customisations requested by the customer.
3. deliver Mr A a suitable courtesy car from its showroom (worth over £66,000 at the time).
4. re-check and rectify problems mentioned by Mr A, whether these were completed by the dealership, or a local independent specialist organised by it.

It said Mr A hadn't accepted the offers made.

Oodle FS said it thought it would be able to resolve the issues with Mr A. It said that it agreed to cover the cost of the inspection and recovery estimated at £100 and £180 respectively but Mr A hadn't provided the quotes and was now including further costs.

It said Mr A said the car had been in storage for a year which it wasn't aware of, and it refused to pay the costs of this and said Mr A accepted this. But Mr A was now asking for Oodle FS to pay for repairs undertaken by the garage the car was recovered to. These are costs for a replaced battery that was needed for diagnostic testing and it was now saying this can't happen unless an £8,000 repair to suspension is carried out so a test drive can happen to find any further faults. Oodle FS said that the repairing garage is asking for around £2,500 for work already completed. It said it hadn't agreed to these repairs and Mr A didn't contact it before having these undertaken. It noted this service had issued a view on a linked complaint which it didn't uphold and said Oodle FS wasn't liable for the cost of the suspension. It asked what costs it would be liable for and noted Mr A had damaged the car by continuing to drive it.

My provisional conclusions dated 24 July 2023

I issued a second provisional decision on this complaint dated 24 July 2023. The details of which are set out below.

It appears that the desired outcome from this complaint is for the car to be repaired. I say this because Mr A was offered the opportunity to return the car in June 2022 which he didn't accept and I also provided the option of rejection in my provisional decision but Mr A continued discussions with Oodle FS and undertook repairs (I note these weren't checked with Oodle FS before they took place). That said, in this case I still think that rejection is the fair outcome. I say this because the repair costs in this case are still uncertain. There is the suggestion of £8,000 for the suspension repair in order to test drive the car (as well as the repairs already undertaken in regard to the battery) and these would then allow the car to be fully assessed. Following this it isn't clear whether further repairs will be needed. Therefore, I cannot say with any certainty the extent of the cost of repairs and whether these would be economical.

In response to my provisional decision the issue of storage costs has been raised in relation to this complaint. Mr A has said he hasn't been able to use his car since end September 2022. The car has therefore needed to be stored. While I understand this has resulted in costs, I have to assess whether it is fair that Oodle FS is required to cover these. In this case Mr A was offered solutions to the issues with his car in May and June 2022, including an independent inspection and the offer of returning the car. He didn't accept these offers at the time. Had he done so, it is likely this complaint would have been resolved at that time.

I also note that Mr A didn't raise the issue of storage costs with Oodle FS until 10 January 2023 and I can see in the final response letter issued 31 January 2023, Oodle FS offered to cover the storage costs from 10 January until the date the car was collected subject to Mr A accepting its offer and paying the other storage costs. Mr A declined the offer. While I understand Mr A had his reasons, I cannot say that he has taken action to mitigate his storage costs. Oodle FS and the dealership have provided opportunities for this case to be resolved sooner and so in this case I do not find that it is fair and reasonable to hold Oodle FS liable for the storage costs incurred.

Mr A hasn't been able to use the car since end September 2022. I accept that there is uncertainty about whether his continuing to drive the car between the identification of repairs being needed and September 2022 contributed to the break down. But, as I find the car wasn't satisfactory quality at supply, I also acknowledge that the underlying cause for the break down could be due to an issue developing at supply. Therefore, I think it fair Mr A is refunded his payments from end September 2022.

As part of the redress, I said that Mr A's deposit should be refunded along with 8% simple interest from the date of payment to the date of settlement. The dealership has raised the issue of the cost of customisations it made to the car which it felt it shouldn't need to refund. It hasn't clearly stated whether it thought this should be deducted from any deposit refunded. It appears any modifications were made as part of the initial sales process, and I do not find that I need to consider these separately. As my decision is that the car is rejected, I would expect the full deposit amount paid to be refunded.

Since my provisional decision, Mr A has had the roof cover and glass replaced and other repairs in order to have the car diagnosed. Oodle FS has said that it didn't approve these repairs. I note that the vehicle health check from May 2022 noted a cracked roof frame. This issue wasn't confirmed as being present at the point of supply in the independent inspection report. The windscreen hadn't shattered at that time, and I note that Mr A continued to drive the car knowing there was an issue. Given the roof repair wasn't authorised and I cannot say for certain the issue was the result of a fault present at the point of supply or that by continuing to drive the car with the fault identified that this didn't cause further damage, I do not find it is reasonable to say that Oodle FS is responsible for this repair cost. Mr A has also continued with further repairs which he says Oodle FS should cover the cost of. However, as

these were undertaken without the agreement of Oodle FS and after I had recommended a rejection of the car, I do not find it reasonable that Oodle FS is required to pay for these.

I can see that there have been discussions about the cost of the May 2022 inspection report being refunded. I think it reasonable, given the initial issues Mr A experienced that the cost of the May 2022, report is refunded to him, subject to evidence of the cost being provided. This refund should be made along with 8% interest from the date of payment to the date of settlement.

This is a complex case and I appreciate my outcome may not be what either party wants. However, given the various aspects to the complaint and the attempts at trying to resolve this over the past months, I find the fairest outcome is for the car to be rejected and associated costs refunded as set out below. I also find that compensation of £250 is reasonable as previously set out.

My provisional decision is that Oodle Financial Services Limited should allow Mr A to reject the car and take the following action:

- 1. Collect the car at no cost to Mr A.*
- 2. Cancel the agreement with no further costs to Mr A.*
- 3. Refund Mr A his repayments from 30 September 2022 less the refunds already made and subject to evidence being provided to show the car wasn't able to be driven from this time (a current mileage would give an indication of this).*
- 4. Refund Mr A the deposit paid (recorded as £25,000 in the hire purchase agreement).*
- 5. Refund Mr A the cost of the May 2022 inspection once evidence of the cost has been provided.*
- 6. Pay Mr A £250 compensation for the inconvenience he has been caused.*
- 7. Remove any adverse information that may have been recorded on Mr A's credit file in regard to this agreement.*

Items 3,4 and 5 are subject to 8% simple interest from the date of payment to the date of settlement.*

**If Oodle Financial Services Limited considers that it's required by HM Revenue & Customs to take income tax from that interest, it should tell Mr A how much it's taken off. It should also give him a certificate showing this if he asks for one.*

Following my second provisional decision, Oodle FS commented that although the agreement was in the name of Mr A, it appeared that the car had been acquired for another party (Party B). It noted that invoices associated with the car were in the name of Party B and the personalised numberplate on the car appeared to be linked to Party B. It said that shortly after acquisition Mr A requested the direct debit set up for his monthly payments change to the account of a company that Party B was a director of. This couldn't be actioned as Mr A wasn't an active director of the company.

My provisional conclusions dated 23 November 2023

I issued a further provisional decision to address the new information that had been raised. My findings were as set out below.

The evidence provided following my second provisional decision doesn't challenge my reasoning in regard to whether the car was of satisfactory quality at supply. Therefore, I haven't changed my conclusion on this point and still require the relevant action to be taken in regard to the car being rejected. That is:

- Collect the car at no cost to Mr A.
- Cancel the agreement with no further costs to Mr A.
- Remove any adverse information that may have been recorded on Mr A's credit file in regard to this agreement.

The issue Oodle FS raised was in regard to whether Mr A took out the agreement for another party (Party B) and therefore didn't incur the costs associated with the agreement. As we can only require Oodle FS to refund the complainant for the costs they have incurred I cannot require Oodle FS to refund Mr A for payments that he didn't make or that were funded by another party.

In light of the above, we asked for further evidence to be provided in regard to the car and the costs Mr A had incurred. We received the following:

- The registered keeper document. The registered keeper was recorded as Party B.
- Evidence of the deposit payment. Six receipts were provided to evidence the deposit payment of £25,000. These showed two payments made from each of three separate accounts. Mr A provided a statement showing the payment of £10,000 on 11 December 2021 and this came from an account in the name of Party B. There was another payment from this account for £4,000 in July 2021. This shows that Party B paid at least £14,000 of the deposit amount.

I haven't been provided evidence of the account names for the other payments, but I note they were debit card transactions, and they weren't from the account that Mr A has provided to evidence his monthly repayments. Given the evidence provided, I find, on balance, that while Mr A may have made the deposit payments over the phone with the dealer, he didn't suffer the costs of these as they were more likely than not (and definitely in part) financed by Party B.

- Monthly repayments. Mr A provided a copy of transactions from his bank account for the period 1 May 2022 to 3 July 2023. It appears he has limited the information provided to just show the transactions linked to the hire purchase agreement payments. The monthly payments can be seen leaving Mr A's account each month from May 2022 to July 2023. A couple of the payments are returned unpaid, and the statement shows that counter payments were made in June and September 2022 for the exact amount of the monthly payment and one of these shows the credit being made by Party B.

As I haven't seen the full statement details, I cannot say if other payments to Oodle FS were being financed through deposits made by Party B. But this evidence, alongside the evidence provided by Oodle FS that Mr A requested to change the bank account details to Party B's company account in the same month he entered into the agreement (but this wasn't allowed), raises concerns that Mr A wasn't bearing the financial cost of the monthly payments.

- Inspection report cost. I haven't seen evidence of the cost of the inspection report carried out in May 2022 and this would need to be provided and show that Mr A incurred the cost of this in order for this to be refunded.

Based on the above, it appears that Mr A entered in the agreement to acquire a luxury car for the benefit of Party B. The evidence suggests that Party B financed the agreement both in regard to the deposit payment and the monthly payments as well as covering other additional repair and storage costs. This complaint has been raised by Mr A and the

agreement is in his name, but as Mr A didn't incur the costs, I cannot require Oodle FS to refund him the amounts I previously set out (that being the monthly repayments from September 2022 until when the car was repaired and the £25,000 deposit). That said, any monthly payments that haven't been made for the period when the car wasn't driveable should be waived.

If evidence of the inspection cost being paid by Mr A is provided this refund is still relevant.

In summary, the new evidence provided hasn't changed my conclusion that the car wasn't of satisfactory quality and Mr A should be allowed to reject it. But I cannot require refunds to be made for costs Mr A didn't incur. Therefore, I have revised my redress in regard to this complaint.

Oodle Financial Services Limited should

- 1. Collect the car at no cost to Mr A.*
- 2. Cancel the agreement with no further costs to Mr A. And waive any payments that haven't been made for the period when the car wasn't able to be driven (evidence to be provided if needed).*
- 3. Remove any adverse information that may have been recorded on Mr A's credit file in regard to this agreement.*
- 4. Refund Mr A the cost of the May 2022 inspection along with 8% interest* from the date of payment to the date of settlement once evidence of the cost being incurred by Mr A has been provided.*
- 5. Pay Mr A £250 compensation for the inconvenience he has been caused by being provided a car that wasn't of satisfactory quality.*

In the event Mr A is able to evidence that he incurred the financial costs (without funding being provided from another source) of the monthly payments when the car wasn't able to be used or the initial deposit payments then we would expect these amounts to be refunded by Oodle FS as per my previous provisional decision.

**If Oodle Financial Services Limited considers that it's required by HM Revenue & Customs to take income tax from that interest, it should tell Mr A how much it's taken off. It should also give him a certificate showing this if he asks for one.*

Mr A responded to my provisional decision. He shared information from a credit card provider which had limited the amount he could spend which he said was a result of Oodle FS's conduct. He said he expected all funds, along with an 8% interest, (including the £25,000 deposit) to be returned to him. And he should be restored to the same financial position he was in prior to the agreement.

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 have considered the information Mr A has provided in response to my provisional decision issued on 23 November 2023. However, this doesn't change my conclusions. Mr A provided a copy of a letter from a credit card provider but I have nothing further to support the suggestion that the card provider's actions are a direct result of the issue Mr A has experienced with Oodle FS.

I understand that Mr A feels he should be refunded all his costs including his deposit. As I have set out from the start, I accept that there was a breach of contract as I do not find that

the car supplied was of satisfactory quality. Because of this I said Mr A should be allowed to reject the car.

I set out what further action we would expect when a car is rejected but also that I can only require Oodle FS to refund costs that Mr A has incurred. The evidence provided in this case suggests that Mr A entered into the agreement for Party B and that deposit payments as well as other costs have been funded by Party B. The monthly payments Mr A made appeared in cases to be funded from elsewhere. Without evidence to show that Mr A has suffered the costs involved in this agreement, I cannot require Oodle FS to refund these to him.

As no further evidence has been provided to suggest the conclusions I set out in my provisional decision of 23 November 2023 are incorrect in regard to the payments, my conclusions haven't changed.

So, in conclusion, I find that Mr A should be allowed to reject the car and Oodle FS should collect the car, cancel the agreement and waive any payments that haven't been made for the period when the car wasn't able to be driven (evidence to be provided if needed). But I do not find that I have evidence to say that Mr A incurred the cost of the deposit payment or the monthly rentals and without this I do not find I can require Oodle FS to refund these amounts.

Putting things right

Oodle Financial Services Limited should

1. Collect the car at no cost to Mr A.
2. Cancel the agreement with no further costs to Mr A. And waive any payments that haven't been made for the period when the car wasn't able to be driven (evidence to be provided if needed).
3. Remove any adverse information that may have been recorded on Mr A's credit file in regard to this agreement.
4. Refund Mr A the cost of the May 2022 inspection along with 8% interest* from the date of payment to the date of settlement once evidence of the cost being incurred by Mr A has been provided.
5. Pay Mr A £250 compensation for the inconvenience he has been caused by being provided a car that wasn't of satisfactory quality.

In the event Mr A is able to evidence that he incurred the financial costs (without funding being provided from another source) of the monthly payments when the car wasn't able to be used or the initial deposit payments then we would expect these amounts to be refunded by Oodle FS as per my previous provisional decisions.

*If Oodle Financial Services Limited considers that it's required by HM Revenue & Customs to take income tax from that interest, it should tell Mr A how much it's taken off. It should also give him a certificate showing this if he asks for one.

My final decision

My final decision is that Oodle Financial Services Limited should take the actions set out above in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 9 January 2024.

Jane Archer
Ombudsman