

## **The complaint**

Ms P complains that a car supplied to her under a hire purchase agreement with Lendable Ltd trading as Autolend (“Autolend”) was of an unsatisfactory quality.

## **What happened**

In October 2022, Ms P was supplied with a used car through a hire purchase agreement with Autolend. The agreement was for £3,495 over 36 months, with monthly repayments of £117.33. Ms P also paid a cash deposit of £3,000. At the time it was sold, the car was approaching seven years old and had done 29,032 miles.

Ms P says that she first noticed a problem with the car when she checked its oil level around two months after it had been supplied to her. She says she added approximately two litres of oil at that time. And less than two months later she again needed to add around 2.5 litres of oil to her car.

In March 2023 Ms P started to notice what she describes as a knocking noise coming from the engine. The company that provided a warranty on her car arranged for a diagnostic check to be performed at a local garage. That identified a problem with the engine but said a further, more detailed, inspection would be needed to correctly diagnose the problem. That inspection took place in early May 2023 and Ms P was advised to not drive the car in its current condition. So Ms P complained to Autolend that the car was not of a satisfactory quality when it was supplied.

Autolend arranged for an independent inspection to be performed on Ms P’s car. That inspection concluded that the faults were most likely due to wear of the wet belt. But it concluded those problems were symptomatic of normal wear and tear and unlikely to have been present, or developing, at the time the car was supplied. So Autolend didn’t uphold Ms P’s complaint.

A further independent inspection was undertaken at the request of the warranty provider. That inspection disagreed with the conclusions reached by the earlier inspection. It said that it thought the problems had been caused by the failure of the piston rings. And the consumption of oil so soon after the car had been supplied, suggested that the problems were present when Ms P took delivery of it. Autolend declined to reopen Ms P’s complaint, preferring the initial inspection findings. So Ms P brought her complaint to us.

Ms P’s complaint has been assessed by one of our investigators. She thought that the evidence presented led her to a conclusion that the car that had been supplied to Ms P was not sufficiently durable and so was not of a satisfactory quality. And given the time that the matter had been outstanding, the investigator thought it would be reasonable for Ms P to be allowed to reject the car. So the investigator set out what Autolend needed to do in order to put things right.

Autolend didn’t agree with that assessment. So, as the complaint hasn’t been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process. If Ms P accepts my decision it is legally binding on both parties.

## **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 deciding this complaint I've taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Ms P and by Autolend. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

At the outset I think it is useful to reflect on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

Ms P was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to look into complaints about it. The relevant law – the Consumer Rights Act 2015 (CRA) - says, amongst other things, that the car should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of finance used to purchase the car, Autolend is responsible. What's satisfactory is determined by what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history.

The CRA also implies that, where a fault is identified within the first six months, it's assumed the fault was present when the car was supplied. So here I will consider when the faults can reasonably be considered to have occurred. If that is within the first six months it would be for Autolend to establish that any faults were not present at the time of sale.

Ms P has provided us with what appears to be honest and complete testimony about the problems she has faced with the car. She says that the car first needed oil adding less than two months after it had been supplied. And she has provided us with a receipt for the purchase of that oil. I accept Ms P's testimony that she was relatively inexperienced in car maintenance, so didn't understand at that time the unusual nature of needing to add that quantity of oil to her car.

The information provided to Ms P by the dealer suggests that a full major service was completed on the car shortly before it was supplied to her. My understanding is that a service of that nature would involve the replacement of the oil in the car. So I think it would be reasonable to conclude that the oil levels were correct in the car at the time it was supplied. In my experience it is unusual for a car, with no other faults, to consume such a large quantity of oil in such a short space of time.

And it seems the excessive oil consumption of the car continued. Ms P has provided further receipts, and testimony, to show that she needed to purchase and add a further quantity of oil after just an additional two months. And then, around a month later, the engine failed as shown by both the inspection reports that were provided.

I don't think I need to determine, to reach a fair conclusion, the exact reason for the failure of Ms P's engine. I have noted that the two expert inspectors reached different conclusions. And both reports also said that a fuller inspection, involving the disassembly of the engine would be needed to reach a definitive conclusion. But whether the failure is with the wet belt or the piston rings I think the rapid consumption of oil would suggest that the part that failed was not sufficiently durable when the car was supplied.

So I am satisfied that the car that was supplied to Ms P was not of a satisfactory quality. And so it follows that Ms P is entitled to redress under the provisions of the CRA. I can see that Ms P first raised this problem to Autolend, and to the dealer, around May 2023. No repairs were offered to her car. Section 23 of the CRA requires any repairs to be completed within a reasonable period of time. Although the act is not specific on how long a reasonable period of time might be, I am entirely satisfied that time period has been exceeded by a significant margin here.

So I think it reasonable that Ms P be offered the remedy provided in the CRA when a repair has failed – that is to reject the car.

Ms P appears to have been able to use her car until 6 April 2023 when she first found it couldn't be driven. And I've not seen anything to make me think that Ms P's use of the car was significantly impaired before that time. So I think it fair that Autolend be allowed to retain any repayments Ms P made during that period. But any payments made by Ms P after that time should be refunded to her.

Ms P has incurred additional costs as a result of the car not being of a satisfactory quality. She has provided receipts for the oil that she needed to purchase totalling £60.98. She needed to pay £54 to the independent garage for the initial inspection. And more recently Ms P has needed to pay £80 for her defective car to be transported to her new home. I think each of those costs should be refunded to Ms P.

There is little doubt that being sold a car that was not of a satisfactory quality has also caused distress and inconvenience to Ms P. So I will direct that Autolend pays her a further £100 in compensation for that.

### **Putting things right**

I think that Autolend supplied Ms P with a car that was not of a satisfactory quality. And I think that a reasonable time for repairs to be offered, and completed, has now passed. So to put things right for Ms P, Autolend should;

- End the hire purchase agreement without any further payment from Ms P.
- Collect the car from Ms P at no cost to her.
- Refund the deposit of £3,000 that Ms P paid towards the agreement.
- Refund any repayments Ms P made on the agreement after the date that the problems first caused her car to be undrivable. (6 April 2023)
- Refund the money spent by Ms P on oil (£22.99 on 28 December 2022 and £37.99 on 18 February 2023)
- Refund the cost of the garage inspection paid for by Ms P - £54 on 2 May 2023.

- Refund the cost of transporting the undrivable car to Ms P's new home - £80 paid on 6 January 2024.
- Add interest of 8% simple a year on each of the amounts refunded above from the date they were paid to the date of settlement. HM Revenue & Customs requires Autolend to take off tax from this interest. Autolend must give Ms P a certificate showing how much tax it's taken off if she asks for one
- Pay £100 to Ms P for the distress and inconvenience she has been caused by being supplied with a car that was not of a satisfactory quality.
- Remove any adverse information that has been added to Ms P's credit file in relation to this agreement.

### **My final decision**

My final decision is that I uphold Ms P's complaint and direct Lendable Ltd trading as Autolend to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 28 June 2024.

Paul Reilly  
**Ombudsman**