

The complaint

Mr P complains about the quality of a car supplied to him by Ald Automotive Limited trading as Ford Lease ("Ald Automotive").

What happened

Mr P acquired a new car under a 36 month hire agreement with Ald Automotive in March 2022. Under the agreement, Mr P was required to make an advance rental payment of £2,476.44, followed by 35 payments of £247.64. The car was supplied by a garage I'll refer to as "D".

Mr P said after a couple of weeks of being supplied the car, warning messages appeared on the dashboard to say the exhaust filter was overloaded. He says he was told the sensors needed replacing. Following this, Mr P said he went back and forth to a dealer about the same fault. He said although various parts were replaced, this didn't fix the problem and the car could have gone into limp mode at any time. Although it's my understanding that this did not actually happen.

In January 2023, Mr P complained to Ald Automotive and said he had lost confidence in the car. He says Ald Automotive told him to take the car back to D. Ald Automotive told Mr P it would need eight weeks to look into his complaint. Following this, the car was booked in with an engineer in May 2023 and it was decided that the whole exhaust filter unit should be replaced.

Ald Automotive issued its response to Mr P's complaint in June 2023. It said Mr P had told it the car was working as it was supposed to, but he wasn't convinced that the fault would not re-occur. Ald Automotive offered an early termination of the agreement to Mr P at no cost.

Mr P said the fault reoccurred with one week of Ald Automotive issuing its response to his complaint. He says Ald Automotive told him to contact D for a replacement car. But there was no replacement available, so Mr P said he wanted to reject the car. Mr P says Ald Automotive refused to refund his advance payment and so, he agreed to the early termination. The car was returned in September 2023. To put things right, Mr P said he wanted a refund of the advanced payment and financial compensation. He said he had to take the car back and forth to the garage on numerous occasions and he was caused stress each time the fault occurred. He also said he had to purchase another car which left him out of pocket.

Our investigator looked into the complaint and said that there was no supporting information to show that the car remained faulty after the latest repair in May 2023. She said she didn't think the car was unsatisfactory quality when it was supplied to Mr P. She also said Mr P had been able to make use of the car without any impaired usage. But she said Ald Automotive should pay Mr P £200 for any distress and inconvenience caused.

Ald Automotive agreed.

Mr P disagreed. He said he felt £500 compensation was more appropriate.

Our investigator said that as Ald Automotive hadn't been provided with the opportunity to investigate the newest issue with the car, it wouldn't be fair to punish it because of Mr P's decision to return the car.

Mr P said that D had the car in a number of times over a period of more than a year. He said Ald Automotive took more than eight weeks to respond to him and he was only given the option to hand the car back. Mr P also provided a copy of the job sheets from some of the visits to D to have the issue repaired.

Our investigator said that Ald Automotive had the right to eight weeks to investigate a complaint. She said the information provided confirmed that Ald Automotive offered to have the car inspected but Mr P made a decision to return the car. She also said the job sheets provided by Mr P didn't confirm why the repairs were carried out.

As Mr P remains in disagreement, the case has been passed to me to decide.

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.

Where evidence is incomplete, inconsistent or contradictory, I reach my view on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time.

Both parties have provided a good deal of evidence, so I've had to summarise things in this decision. The rules of our service allow me to do this, but I want to assure the parties, if I don't mention every single point that's been raised, it's not because I haven't thought about it. I have considered everything that's been said and sent to us. However, I'm going to concentrate here on what I consider is key to reaching a fair and reasonable outcome overall.

What I need to decide in this case is whether the car supplied to Mr P was of satisfactory quality. If I don't think it was, I'll need to think what's fair, if anything, to put things right.

The finance agreement in this case is a regulated hire agreement. So our service is able to consider complaints relating to it. Ald Automotive is the supplier of the car under this type of agreement and so is responsible for dealing with a complaint about its quality.

The Consumer Rights Act 2015 ("CRA") covers hire agreements. Under a hire agreement, there are implied conditions that the goods supplied will be of satisfactory quality.

Satisfactory quality is what a reasonable person would expect. So the car's condition at the point of supply, should meet the standard a reasonable person would consider satisfactory, given its age, mileage and price. The CRA says the aspects of the quality of the goods includes their general state and condition alongside other things such as their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability.

The car Mr P acquired was brand new. Bearing this in mind, I don't think a reasonable person would expect the car to have any problems for a reasonable amount of time and I think they would have high expectations for the quality of the car.

In this case, Mr P reported that the car cut out soon after he acquired it. He says he took the car back to D a number of times as there was an issue with the diesel particulate filter (DPF). However, the earliest job sheet Mr P has provided is from December 2022. This was nine months after Mr P was supplied the car and it confirms that the NOx sensor was replaced and a stationary regeneration of the DPF was carried out. Mr P provided a further job sheet showing that the fuel injectors were removed in March 2023 and in May 2023, the DPF was replaced. All of the work was carried out under warranty. There is no supporting information to confirm that any repairs were carried out before December 2022.

From the job sheets, there are no notes to confirm whether there is a fault and why the parts are being repaired or replaced. Mr P in an email to Ald Automotive said that various dealers had told him he needed to “drive harder” and that he wasn’t doing “enough long journeys”. He said that this was infuriating as he’d never had any issue with the three previous versions of the same make and model of the car, which were all used at the time he acquired them. Mr P said he wasn’t driving any differently to how he had always driven and he didn’t think he should have to drive differently to suit the car.

However, a car fitted with a DPF will need to be driven in a particular way. This is because a DPF is designed to remove soot and residue from the exhaust gas of the engine. So the engine requires the car to be run in a certain manner to increase the exhaust temperature to burn off the accumulated soot and residue. This is known as regeneration and is something that needs to be done by driving the car at a higher speed for a certain amount of time at a certain interval.

The handbook for Mr P’s car says:

- a warning light will appear if the DPF is near or at saturation. It says if this occurs, *“Failure to carry out regeneration when required could result in a clogged diesel particulate filter. If the diesel particulate filter fills beyond the regeneration threshold, the system disables the ability to carry out regeneration.”*
- It lists a number of issues that could cause the DPF filter to clog such as driving short distances, prolonged engine idling, frequently switching the engine on and off and high levels of acceleration and deceleration.
- The regeneration process can be assisted by, *“Avoiding prolonged engine idling...Drive your vehicle in a manner to allow effective cleaning. The automatic regeneration process is most effective when you drive at a steady vehicle speed of 48 km/h (30 mph) or above for approximately 20 minutes. The frequency and duration of the regeneration process varies by how you drive your vehicle, the outside air temperature and altitude. Frequency varies between 160 km (100 mi) and 500 km (310 mi) and each regeneration process lasts between 10 and 20 minutes.”*
- It goes on to say if you’re, *“not driving your vehicle in a manner that allows effective cleaning, a message may appear in the in the information display to instruct you to drive in a manner that allows automatic regeneration.”*

Mr P in his submission has said that he was told he needed to drive the car in a particular way, but he didn’t think he needed to drive any differently. However, he did not need to drive it differently but he did need to make sufficient journeys over a certain speed and mileage to enable the regeneration process to be effective and this is supported by the instructions listed in the car’s handbook. Mr P’s submissions persuade me that it’s more likely than not that the car did not have sufficient journeys completed over a certain speed and mileage to allow the regeneration process to operate effectively.

Given that Mr P has only provided supporting information to show the issue occurred after six months of him being supplied the car, he would need to show that the fault with the car exists. Having reviewed the information on the file, he hasn’t provided any supporting information which confirms why the faults occurred or any independent information suggesting that the faults occurred because the car was of unsatisfactory quality.

In light of all this, I’m not satisfied that the car supplied to Mr P had a fault. Or that this fault made the car of unsatisfactory quality.

Having said this, I can see that there were delays when Ald Automotive reviewed Mr P’s complaint. These were delays of around four months. Ald Automotive has agreed to pay Mr P £200 for any distress and inconvenience caused as a result of this. I think this is fair and reasonable in the circumstances.

My final decision

I uphold Mr P's complaint. Ald Automotive Limited trading as Ford Lease should put things right by paying Mr P £200 for any distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 7 November 2024.

Sonia Ahmed
Ombudsman