

The complaint

Mr M complains about the quality of a car supplied to him on finance by Oodle Financial Services Limited trading as Oodle Car Finance.

What happened

The parties are familiar with the background details of this complaint – so I will briefly summarise them here. It reflects my informal remit.

Oodle supplied Mr M a car on hire purchase. Mr M says the car Oodle supplied was faulty and had various issues including an abnormal engine noise. Mr M says it was taken in for repair but he was without it for months and it still hasn't been properly fixed. He wants to reject the car now.

Our investigator upheld the complaint and said Mr M could reject the car and get some money back to reflect time without the car.

Oodle disagrees and says that the latest report on the car shows there are no ongoing issues.

The matter has been passed to me for 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.

While I might not comment on everything (only what I consider key) this is not meant as a discourtesy to either party – it reflects my role resolving disputes informally.

In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

The agreement in this case is a regulated consumer credit agreement. As such, this service is able to consider complaints relating to it. Oodle is also the supplier of the goods under this type of agreement, and responsible for a complaint about their quality.

The Consumer Rights Act 2015 is of particular relevance to this complaint. It says that under a contract to supply goods, there is an implied term that "the quality of the goods is satisfactory".

The Consumer Rights Act 2015 says the quality of goods are satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, the price and all the other relevant circumstances. So it seems likely that in a case involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage at the time of sale and the vehicle's history.

The Consumer Rights Act 2015 ('CRA from now on') says 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 can be aspects of the quality of goods.

Oodle supplied Mr M with a second-hand car that was around 8 years old and had done 83,270 miles at the point of supply. The dealer priced it at £7,698 which is notably less than what a new or newer model with less mileage would cost. It is fair to say that in these circumstances a reasonable person would consider that the car had already suffered significant wear and tear – and was likely to require more maintenance and potentially costly repairs much sooner than you might see on a newer, less road worn model.

With that said – a reasonable person would not expect major issues shortly after sale – noting that this car still cost several thousand pounds. In this case, Mr M maintains that he was having issues with engine noise and other issues like braking problems soon after taking supply of the car at the end of March 2023. This is reinforced by contact notes from Oodle from early May 2023 showing Mr M contacted it to report issues with the car and noting he didn't feel safe in it and wanted to reject it but the dealer wouldn't let him. He mentioned issues with warning lights illuminating, braking and a boot catch.

As a result of Mr M's concerns it appears that Oodle facilitated an expert inspection carried out in June 2023 ('Report A'). This concluded that:

- *The car had signs of poorly repaired accident damage;*
- *The boot lock assembly is loose and letting rainwater in; and*
- *The engine is noisy indicating potentially serious issues with the it – the car should not be used until the noise is diagnosed and rectified due to the possibility of catastrophic engine damage occurring*

It could be argued the boot lock issue and the badly repaired damage (which the report says is cosmetic) is reasonably expected and more minor wear and tear on a car of this age and mileage. But the indication of serious engine issues so soon after supply seem unreasonable, noting that they were reported to Oodle around five weeks after taking delivery and with the car apparently having not covered significant mileage at that stage (I note that by the time Report A was carried out the car had covered less than 1,000 miles in Mr M's possession).

So, I conclude that based on Report A the car was not of satisfactory quality at the point of supply and Mr M was entitled to a remedy under the CRA.

It appears that as a result of this report and Mr M's concerns the car was taken back by the dealer for repairs. Repairs are not an unreasonable remedy here considering the provisions of the CRA but there is an argument that here they took too long (Mr M appears to have got the car back in late July 23) and therefore under the CRA gave Mr M a right to reject the car at that stage. But, in any event, Mr M complained to Oodle shortly after that the issues were not all addressed and the engine noise was still present. Another report was then organised ('Report B') and Oodle indicated to Mr M that if this report confirmed that repairs had failed he could reject the car.

Report B was carried out in August 2023 and confirms that the abnormal engine noise is still present – which indicates to me that the repairs failed to address the underlying issue here. I note the report indicates the fault would not have been present from the point of sale – but it also wrongly states that the noise 'appears to have just become apparent' – which is a mistaken record of the facts here – Mr M reported the noise shortly after the point of supply.

As repairs had failed – considering the provisions of the CRA – Mr M was able to exercise his final right to reject the car. It would have been reasonably clear to Oodle at this stage from communication to date that Mr M didn't want it anymore and in the circumstances it seems like a fair resolution to the original breach of contract with the car.

However, it appears the dealership insisted on taking the car back to take another look and commissioned another expert report ('Report C') which said the car had no abnormal noises and things were OK. However, I don't think this changes rejection as a fair remedy. I say this because:

- The report does not explain why the car has no abnormal noise considering two previous reports (and Mr M) confirmed it did – for example, it does not confirm if further repairs were carried out or why the noise would suddenly not be apparent in the absence of further repairs; and
- at this stage, and in any event, Mr M had the right to reject the car – it wasn't for the dealer to insist on further opportunities to address issues through repair or further inconvenience for Mr M.

Mr M has confirmed he has the car back now but it still is not right and the engine noise is still evident. From what Mr M says it appears Oodle support his decision to reject the car but the dealership won't accept this.

In the interest of completeness, I note the submissions Oodle forwarded from the dealer when referring the matter for final decision – but I don't find them persuasive. They do not really explain why the first two reports identified issues – and the third and final didn't. Nor do they recognise Mr M's consumer rights – which extend beyond 30 days after the point of sale.

I also remind Oodle that as the supplier of the vehicle it has the liability here and should be the one making the decisions on a fair remedy – not the dealer. Now the matter has come to me I will be directing it to accept rejection and compensate Mr M accordingly.

Oodle should now take the car back at no further cost to Mr M and refund his part exchange contribution. It should end the agreement with no adverse information remaining in relation to it on Mr M's credit file (if applicable).

There has been some dispute over exactly what the part exchange contribution is. Where matters are in dispute I base my findings on the balance of probabilities. Oodle are maintaining that the part exchange price was agreed at £75 (as the sales paperwork reflects) so this is what Mr M would get back. However, Mr M disputes this. He says that for his car he negotiated a value of £1,500 which was partially reflected as discount on the new car (as reflected on the paperwork as a discount of £1,425). Our investigator has looked at the approximate value of the part exchanged car at the time. It appears to be worth around £1,400 – so it seems extremely unlikely that Mr M would agree to take £75 for it. I think it more likely that the agreed vehicle discount of £1,425 was a component of the part exchange allowance. Therefore, I consider that Mr M should get back £1,500 as his initial contribution.

I note that Oodle paid for the initial expert reports so Mr M will not get the cost of these.

Mr M has used the car so should pay something for that but his use of it has clearly been impacted by the quality issue with the engine. Either he has been without it (while it was in the garage for inspection/repair) or his use has been generally impaired by the noise and occasional stalling- even if the car is technically drivable. Deciding a fair compensation amount for this is not a science. From what I can tell from the information available including

Mr M's testimony (and the communication with Oodle at the time) from 9 May 2023 to 13 November 2023 Mr M's use of the car was particularly impacted as after first reporting the issues with the car he was without it for long periods as it was with the dealership regarding repairs or inspections. Mr M's correspondence with Oodle from May 2023 shows he is complaining to it of periods he doesn't have the car due to it being with the dealer and of how little use he has had of it to date. It also appears he wasn't given a courtesy car.

Our investigator has recommended that Oodle refund Mr M all his payments from 9 May to 13 November 2023 in full to reflect the impact of the ongoing investigations and repairs here (with a deduction of £525 for the travel costs already received back from Oodle). It appears Mr M had some sporadic use of the car when it came back after the initial repair attempt so Oodle might argue that refunding all those monthly payments in full is slightly too much. However, I think that in the round it is fair considering that Mr M's current use of the car will be impacted to a degree by the ongoing issues as well.

It could also be argued that Mr M's current use of the car is impaired more significantly than the redress reflects. However, in deciding fair compensation I also note that Mr M has agreed with our investigator's proposal and has not provided further evidence of significant detriment to his ongoing use of the car since getting the car back. I also note that the mileage of the car Mr M has submitted shows he has continued to use the car since Report B was carried out despite the ongoing concern regarding the engine noise. So I don't consider further refunds are due based on the information I have.

Mr M has also described the overall stress of the matter and the impact it has had on him. He described this to Oodle while the issues were ongoing. I know Oodle arranged expert reports in an attempt to be helpful – and I recognise this was a way it was attempting to support Mr M with the issues. However, it ultimately didn't do enough to facilitate rejection of the car once Report B was concluded. I think it caused Mr M unnecessary stress here. Our investigator has recommended a payment of £250 for this – which I think is fair.

Putting things right

Oodle should put things right as I have set out below.

My final decision

Oodle Financial Services Limited trading as Oodle Car Finance should:

- Take back the car at no further cost to Mr M and end the agreement – removing any adverse information in respect of said agreement from Mr M's credit record;
- refund Mr M his part exchange contribution of £1,500;
- refund Mr M all the monthly payments for the period from 9 May to 13 November 2023;
- pay 8% simple yearly interest on all refunded amounts from the date of payment until the date of settlement;
- pay £250 compensation for distress and inconvenience caused; and
- deduct £525 from the total due back to Mr M to reflect compensation paid to him to date.

If Oodle considers it should deduct tax from my interest award it should provide Mr M with a certificate of tax deduction.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 10 October 2024.

Mark Lancod
Ombudsman