

## **The complaint**

Mr E complains that a car he acquired with a hire purchase agreement with Creation Consumer Finance Ltd ("Creation") was of unsatisfactory quality.

## **What happened**

In November 2022, Mr E entered into a hire purchase agreement with Creation for a car. The car was around five years old, had a cash price of £15,900 and had covered just over 70,000 miles. Mr E took the car for a full service shortly after and it was recommended to him that the belt tensioner should be changed. Mr E agreed to this, and the rear brake pads were replaced as well.

In January 2022, the car broke down and the supplying dealership arranged for an independent inspection to be carried out. This concluded that the car's engine had seized and that 'the selling agents hold responsibility'.

Mr E complained to Creation, but they didn't uphold the complaint. So, he referred his complaint to us. Our investigator recommended that it should be upheld. She felt that the car wasn't of satisfactory quality when Mr E acquired it.

Creation agreed with our investigator's view, however agreement couldn't then be reached on how the matter should be settled. So, Mr E's complaint 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.

I've summarised the events of the complaint to quite some degree. I don't intend any discourtesy by this – it just reflects the informal nature of our service. I'm required to decide matters quickly and with minimum formality. But I want to assure Mr E and Creation that I've reviewed everything on file. And if I don't comment on something, it's not because I haven't considered it. It's because I've concentrated on what I think are the key issues. Our powers allow me to do this.

This also reflects the fact that Creation accepts that the car Mr E acquired was of unsatisfactory quality. So, I don't need to decide this point in any detail.

I would say though for completeness that I find that the car was of unsatisfactory quality. I say this noting that the engine seized very shortly after Mr E acquired it and with there being no persuasive evidence that this was caused by how Mr E used the car or by the belt tensioner being replaced. I don't think a reasonable person would have expected the car of such age and mileage to fail in such a way so soon after acquiring it.

The outstanding issue is how Mr E's complaint should be settled and what fair compensation is due to him for what's happened.

As it stands, Creation has agreed to do the following:

- Pay Mr E £7,795 to cover the cost he paid to repair the car.
- Refund Mr E the monthly payments he made under the hire purchase agreement from January 2023 to October 2023.
- Refund Mr E £1,291.08 for costs he paid for third parties to recover the car after it broke down and to cover the cost of the repair to the belt tensioner.
- Pay Mr E £200 for the trouble and upset he was caused by being given a car of unsatisfactory quality.
- Remove any adverse information recorded in relation to the hire purchase agreement from Mr E's credit file.

Mr E doesn't agree that the above fairly settles his complaint. He's said the car has further faults, namely problems with the gearbox, the ABS, the Audio Front Control Module, the Body Control Module, the Gateway Module 'A', the Transmission Control Module, the Telematic Control Unit Module, and the Power Steering Control Module. Mr E now wants to reject the car as a result.

I've considered the more recent evidence Mr E has sent to us. This comprises an invoice from a third-party garage which outlines that the auto transmission needs to be scanned and a diagnostic report from the same garage which outlines fault codes relating to the other parts of the car that I've referred to above.

However, there's no indication within these documents of how and why these faults have occurred and these don't appear to be linked to what caused the car to break down initially. I can't therefore assume that these faults were down to inherent or developing faults with the car or that these weren't faults that might be expected with a car of this age and mileage. Nor can I be sure that these issues didn't result from the work carried out by the garage that repaired the car – which I understand in this case wasn't the dealership who supplied it.

Having considered the matter, I find that the settlement agreed between our investigator and Creation fairly compensates Mr E for being provided with a car of unsatisfactory quality. It means Mr E will be refunded for the cost of the repairs following the engine seizure and that he won't have to pay Creation for the period of time the car was undriveable. Mr E will also be refunded the recovery costs he incurred and the cost to replace the belt tensioner.

Mr E can though, if he wishes, send the recent evidence around the faults with the car to Creation for them to review.

## **Putting things right**

Creation should do the following:

- Pay Mr E £7,795 to cover the cost he paid to repair the car. Interest of 8% simple each year should be added to this from 16 October 2023 to the date of settlement.
- Refund Mr E the monthly payments he made under the hire purchase agreement from January 2023 to October 2023.
- Refund Mr E £1,291.08 for costs he paid for third parties to recover the car after it broke down and to cover the cost of the repair to the belt tensioner. This comprises the following costs and when they were paid:
  - £300 recovery cost paid on 29 May 2023
  - £170 recovery cost paid on 28 December 2022
  - £350 recovery cost paid on 26 September 2023
  - £210 for a diagnostic check paid on 9 January 2023
  - £261.08 to repair the tensioner paid on 30 November 2022
- Interest of 8% simple each year should be paid on the above from the date of payment to the date of settlement
- Pay Mr E £200 for the trouble and upset he was caused by being given a car of unsatisfactory quality.
- Remove any adverse information recorded in relation to the hire purchase agreement from Mr E's credit file.

## **My final decision**

I uphold this complaint and direct Creation Consumer Finance Ltd to carry out the instruction I've set out in the 'putting things right' section of my decision.

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

Daniel Picken  
**Ombudsman**