

The complaint

Mr P complains about the quality of a car he acquired through a hire purchase agreement with MI Vehicle Finance Limited ('MI'). He says that the car had an oil leak when he first took delivery of it. This was repaired at the time, but Mr P thinks the repair didn't properly fix the problem.

What happened

Mr P's complaint is about the quality of a car he acquired using a finance agreement in June 2022. The car was used, and it was first registered in September 2017. So, it was just under five years old when Mr P received it. It had covered 48,800 miles.

Mr P acquired the car using a hire purchase agreement that was started in June 2022. The car had a cash price of £23,495. Mr P financed the full price of the car and he didn't pay a deposit. This agreement was to be repaid through 48 monthly instalments of £413.52 with a final repayment of £8,777.25. If Mr P made the repayments in line with the credit agreement, he would need to repay a total of £26,628.21.

Mr P has complained about the quality of the car. Below is a summary of the issues complained of by Mr P and the investigation and repair work carried out by the dealership.

In November 2022 Mr P's car was returned to the dealership to fix an oil leak. The car was returned to him in around three to four days. Both Mr P and MI have not been able to obtain details about the 2022 oil leak work. I understand the garage that made this repair (it was sent by the dealership to a third party) has not retained the details.

Mr P has said that the car was still leaking oil at this point, but he kept an eye on it. MI has noted that the car passed its MOT check in April 2023 with a recorded mileage of 62,397. MI has said there was no evidence of an oil leak at this time. I've seen there were some unrelated advisories on the MOT check but no mention of an oil leak.

In October 2023, Mr P contacted the dealership saying he'd had continuing problems with the car and he'd needed to put a large amount of oil in it since May 2023. He thought that the original oil leak had not been repaired. He couldn't get the car repaired under warranty as this had now expired.

Mr P took the car back to the dealership in October 2023 and he complained to MI on the basis that this was a continuation of the earlier oil leak. Mr P says that he wasn't able to drive the car properly from October 2023 onwards.

Mr P was contacted by the dealership in October 2023, and I can see that in November 2023 it performed diagnostics on the car at no cost to Mr P. The dealership's records show that a screw or bolt had come loose from part of the engine, and this was causing an oil leak. This was repaired at the time at no cost to Mr P. The car mileage was just under 68,500.

There were some other minor issues noted with the car about the suspension, but no work was completed about this. These issues aren't related to this complaint.

It was agreed that the car would be monitored, and that Mr P should return it to the dealership either after 250 miles or in January 2024 whichever was the soonest. Mr P has said that the car was still leaking oil at this point. The car was looked at again in January 2024 and the dealership again paid for the investigation work. This investigation work determined that the engine had a further oil leak. There was now an oil leak from the lower part of the engine around the crank pulley. The investigative work also showed the previous oil leak(s) were no longer present.

The Investigation couldn't say when this 'new' oil leak developed as the oil leaking from the loose bolt would have been significant and would have made other leaks difficult to see. So, it is possible that the leak around the crank pulley area had been present or developing earlier.

Mr P didn't want to pay for this to be repaired and he complained to MI saying that because of the oil leak problems the car was not of satisfactory quality. He thinks the supplying dealer is providing faulty cars and he wanted to now reject the car and have the finance cleared. He has been paying for a car that he could not use properly.

MI initially said that it thought that the previous oil leak issues had been repaired and the current oil leak was due to wear and tear. It said this was the most likely reason for the current oil leak, given the time Mr P had the vehicle and the distance he had travelled in it.

MI then considered the complaint in full, and it didn't uphold it. It said that it couldn't see the job sheets for the 2022 repair work. But it didn't think the current oil leak was related to the problems in November 2022. This was because the 2023 MOT had not shown any oil leak related problems. And the current problems were likely due to wear and tear as Mr P had travelled over 22,000 miles since he had acquired the car.

Mr P didn't accept this, and correspondence continued between him, MI and the dealership to try and resolve this issue. I've read all this correspondence, but I don't need to detail it here.

In February 2024, given the problems Mr P had with the car, the dealership agreed to buy it back. The finance agreement has been settled and Mr P has nothing further to pay. MI has returned two monthly repayments to Mr P, and it has paid him £200 for any distress and inconvenience caused. The total compensation it has paid is £1,027.04. The vehicle was returned to the dealership near the end of February 2024.

Whilst Mr P has agreed to the finance being settled, he didn't think this fully resolved his complaint and he has brought it to the Financial Ombudsman Service.

He said that he had restricted use of the vehicle between October 2023 and February 2024, which was around five months. He paid over £2,000 for the car over this time as well as insurance and car tax costs. And he has had to take time off work to take the car to the dealership for investigation a few times. He has lost out as he can only source a car with a higher interest rate, and this is expensive. So, he thinks the compensation offered is too low.

Our Investigator didn't uphold Mr P's complaint. She said it's clear that there was a fault with the car and MI has accepted this. But the business has done what she would reasonably have expected it to do in allowing Mr P to reject the car, refunding two monthly repayments and paying a further £200 compensation. She didn't think MI ought to do anything further here.

Mr P didn't agree, and he asked that an ombudsman consider the complaint. He said that he paid over £7,500 for a faulty vehicle which could have caused problems in an accident. More went wrong with the car than was reasonable. So, he thinks the compensation is too low.

Because Mr P didn't agree, this matter has been passed to me to make 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.

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 hire purchase – so we can consider a complaint relating to it. MI as the supplier of the goods under this type of agreement is responsible for a complaint about their quality.

The Consumer Rights Act 2015 ('CRA') is relevant 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'.

To be considered 'satisfactory', the goods would need to 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 car's history.

The CRA 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.

This car was a few months under five years old when Mr P acquired it and it had travelled around 49,000 miles. The cash price was about £23,500 at that time. I think a reasonable person would accept that such a vehicle would probably have some parts that are worn and would need replacing sooner or later – which is reflected in the lower price paid in comparison to a new vehicle.

But there's also a reasonable expectation that a vehicle will be relatively durable - taking into account its age, price and mileage at the outset. So even though the vehicle wasn't new Mr P should have been able to use it for a reasonable period of time before it needed significant work.

Was there a fault with the car

I think it's reasonable to say that the car did have faults. As I've outlined above there has been a series of oil leaks and Mr P has needed to return the car to the dealership to get these resolved several times. I don't think there is now a dispute about whether or not the car was faulty.

Was the car of satisfactory quality bearing in mind the fault

MI has said the second and third oil leaks happened too far on from the point of supply for them to have been present when Mr P acquired the car. So they should be considered wear and tear.

The investigation information I've seen shows this may not be the case. This is because the oil leak caused by the loose bolt that was repaired in 2023 led to a significant loss of oil from the engine, and this may have obscured other similar problems. And the leak around the crank pulley could have been developing for some time. But without the details about what happened in 2022, I can't really be certain of this.

That said the car did pass it's MOT in April 2023 and, as far as I can see, there is no evidence of a significant oil leak at this point. And this would support what MI says that the second oil leak identified in 2023 was new and was wear and tear.

But overall, I think it's reasonable to say that MI has to some degree recognised that the car has had significant and ongoing problems with oil leaking from the engine. Because of this it has allowed Mr P to return the car and end the finance agreement. I don't think there is any disagreement that this was the right thing to do and it's what Mr P asked for when he initially complained. So, I won't consider the quality of the car further.

The remaining dispute here is whether the compensation that has been paid to Mr P goes far enough.

MI has refunded two monthly repayments and paid £200 compensation. He thinks MI should have refunded more of the monthly amounts he paid. This is because he said he had limited use of the car between October 2023 and February 2024. And five months payments are over £2,000.

But Mr P has had use of the car for most of the time he has owned it, even if this was limited towards the end of his period of ownership. And whilst he was having some problems with the car between October 2023 and February 2024, he was still using it as the recorded mileages show. And I understand he was able to drive it for around 20,000 miles over the whole period of ownership. So, I think the refund of two months payments is fair.

Mr P says he can now only obtain a car using a much higher interest rate. But whilst this may be the case, I don't think I can directly relate this to the car he has complained about here and the faults with it. There are many external factors that may influence what price Mr P may pay for the car he is now looking to purchase. So, I don't think I can reasonably say that Mr P should receive further compensation for this.

I also note that Mr P was inconvenienced on several occasions by having to take the car back and forth to the garage. I can imagine it would have been frustrating and stressful for the problems to keep re-occurring as they did. But some of the refund of the payments is compensation for the limited use of, and problems with, the car. So, I think the £200 offered by MI on top of this is fair.

My final decision

For the reasons set out above, I don't uphold Mr P's complaint.

In addition to returning the car and ending the finance MI Vehicle Finance Limited has already made an offer to pay £1,027.04 to settle the complaint. I think this is fair in all the circumstances.

So, my decision is that MI Vehicle Finance Limited should take back the car, end the finance agreement and pay £1,027.04. I understand all of this has already been actioned and paid. MI doesn't need to pay this compensation again.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 3 January 2024.

Andy Burlinson
Ombudsman