

## **The complaint**

Mr G complains about the quality of a car he was supplied with by CA AUTO FINANCE UK LTD ("CA") under a finance agreement ("agreement") and that the agreement had been mis-sold to him.

## **What happened**

On 27 May 2023 Mr G entered into an agreement with CA for a car costing £35,350 that was a little over 3 years old and which had travelled approximately 15,500 miles.

Under the terms of the agreement, everything else being equal, Mr G undertook to make an advance payment of £350.00 followed by 48 monthly payments of £615.09 and 1 monthly payment of £16,671.00 making a total repayable of £46,545.32 at an APR of 10.0%. The agreement came with an annual mileage allowance of 5,000.

On 31 July 2023 the car broke down and was uplifted to the original supplying dealership ("S") for repair.

On 10 October 2023 S advised Mr G that the car had now been repaired and could be collected. However, Mr G advised S that he wasn't prepared to collect it and that he was exercising what he understood was his right to reject it.

On the same day Mr G complained to CA that he should be able to reject the car and that the agreement, for various reasons, had been mis-sold to him.

On 19 October 2023 Mr G returned to S the courtesy car it had supplied him (whilst his was undergoing repair) but he didn't collect his car.

On 31 October 2023 CA issued Mr G with a final response letter ("FRL"). Under cover of this FRL CA said it was satisfied that the agreement hadn't been mis-sold and that given the car had been successfully repaired it was satisfied it had no further obligation to Mr G regarding the car's quality. However, as a gesture of goodwill, CA went on to say that it was prepared to refund Mr G 50% of his August and September 2023 agreement payments totalling £615.09.

On 7 November 2023, and unhappy with CA's FRL, Mr G referred his complaint to our service.

On 13 December 2023 Mr G collected the car from S.

Mr G's complaint was considered by one of our investigators who came to the view that:

- on balance Mr G was supplied with a car that was of unsatisfactory quality
- however, given the car had been repaired at no cost, CRA had met its various regulatory and legislative obligations (owed to Mr G) and it was under no obligation to accept rejection of the car

- CRA's offer of £615.09 was, in all the circumstances, fair and reasonable and it need not increase this to compensate what Mr G says was other losses he had suffered
- on balance the agreement hadn't been mis-sold
- CRA had dealt with Mr G's complaint in line with its regulatory obligations

Mr G didn't agree with the investigators view so his complaint has been passed to me for review and 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.

First I would like to make clear that I'm only considering in this decision Mr G's complaint that the car was of unsatisfactory quality as a result of breaking down in July 2023 and that the agreement was mis-sold to him. In other words, I'm not considering any complaint Mr G might have about the car's quality as a result of it requiring, later in time, a valve replacement.

Secondly I would like to make clear that I've read the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point (including those made by Mr G in his substantive response to the investigator's view) or particular piece of evidence, it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome. Our rules allow me to do this, reflecting the fact that we are an informal free service set up as an alternative to the courts.

Finally I would like to point out that where the information I've got is incomplete, unclear or contradictory, I've to base my decision on the balance of probabilities, that is what I think is more likely to have happened than not.

#### **the car's quality and Mr G's request to reject it**

Mr G acquired the car under an agreement with CA and as the supplier of the car, CA is responsible for the quality of it. Where the car is found to not be of satisfactory quality, CA can be held liable for that. The Consumer Rights Act 2015 ("CRA") is relevant legislation when considering the quality of goods and services. This essentially says that the car should be of satisfactory quality at the time it's supplied to Mr G.

Satisfactory quality is what a 'reasonable person' would expect, considering amongst other things the age and price of the car. Section 9 of the CRA refers to satisfactory quality and notes that the quality of goods includes their state and condition. It goes on to list the following aspects, amongst others, of the quality of goods, (a) fitness for all the purposes for which goods of that kind are usually supplied; (b) appearance and finish; (c) freedom from minor defects; (d) safety; (e) durability.

CA appears to accept the car was of unsatisfactory quality, but for the avoidance of doubt I would like to make clear that I'm of the same view. I say this because I wouldn't expect a car that cost over £35,000, was less than three and half years old and which had travelled less than 20,000 miles to breakdown and require repairs costing nearly £3,500 within a couple of months of Mr G taking delivery of it.

I appreciate that Mr G says he lost faith in the car and the repairs, at 10 weeks, took too long to be completed. But given the nature of the repairs that were required I'm not persuaded that 10 weeks was excessive. Furthermore, Mr G didn't request rejection of the car until after he had been advised it had been fully repaired.

The above, together with the fact that under the CRA CA and/or S had one right to repair the car and did so I can confirm that I'm satisfied that CA isn't required to accept rejection of it as Mr G has submitted should happen.

However, Mr G should be compensated for the fact that his car was in for repair with S for 10 weeks. But given that Mr G was provided with a courtesy car whilst his was with S for repair I'm satisfied that CA's offer to refund him £615.09 constitutes an appropriate sum in this respect.

I note that Mr G says whilst his car was in for repair with S he was still incurring the cost of insuring it. But as pointed out by the investigator Mr G was obliged to continue insuring his car whilst it was undergoing repair.

But in any event, I think it's worth pointing out that although Mr G had the cost of insuring his car whilst it was in for repair with S he didn't have the cost of insuring the courtesy car he had been provided with.

I also note that Mr G says that following the return to S of the courtesy car it had supplied him he incurred a cost in getting insurance cover on his sister's car. But I'm not persuaded this is a cost CA should have to refund given that when this cost was incurred Mr G's car had been repaired and was available for collection.

Mr G says he should have been provided with a detailed fault and repair report and without a copy of such a report he was entitled to assume the car might still be unsafe, or unsafe, to drive.

I understand why Mr G might have liked such a report but I'm satisfied that he was given enough information to understand, in the broadest terms at least, what repairs to the car were required and what repairs were undertaken. I'm also satisfied that S wouldn't have confirmed the car was repaired and ready to collect if it had any doubts over the car's safety or that the provision of a fault and repair report would have provided the reassurances Mr G says he was looking for and entitled to.

### The sale of the agreement

Like the investigator I can't say for certain what was discussed with Mr G at the point of sale. But regardless of what might or might not have been discussed with Mr G at the point of sale the fact remains that on signing the agreement Mr G confirmed, amongst other things, that he been given the opportunity to consider what it was he was signing and that the key features of what it was he was signing had been explained to him.

So with the above in mind and having regards to what the agreement states in respect of, amongst other things, the allowable annual mileage and payments required of Mr G (including a final payment of £16,671) I'm not persuaded, on the balance of probabilities, the agreement was mis-sold to Mr G.

For the sake of completeness I would that I'm satisfied that the sale of the car and the brokering of the agreement wasn't done at a distance and that although Mr G didn't sign the agreement until after he had taken possession of the car I can't see anything that prevented Mr G taking his time to read and fully understand what he was being asked to sign or anything that prevented him from not signing what he being asked to sign and to return the car back to S.

#### other matters

Mr G submits that the mileage on the agreement, recorded as 15,900, is incorrect. But like the investigator I've seen insufficient evidence that this is the case. But even if I was to accept the mileage on the agreement is wrong by 400 miles I'm not persuaded this is grounds for me to be able to conclude the agreement was mis-sold or that such an error has caused, at the current point in time at least, a loss.

I can also see that Mr G is unhappy with how his complaint was handled by CA. But although I accept that CA could have kept Mr G better informed and updated on the progress of his complaint, including responding to one or more emails sent by Mr G from one or more email addresses, given how quickly CA issued its FRL giving Mr G referral rights to our service I'm not persuaded that CA's handling of Mr G's complaint warrants me making any award in his favour.

I appreciate that Mr G will be disappointed but having offered him £615.09 I'm satisfied that in the particular circumstances of this complaint CA need do nothing further.

#### **My final decision**

My final decision is that to the extent it hasn't done so already CA AUTO FINANCE UK LTD must pay Mr G £615.09.

My final decision concludes this service's consideration of this complaint, which means I'll not be engaging in any further consideration or discussion of the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 26 November 2024.

Peter Cook  
**Ombudsman**