

The complaint

Miss L complains about the quality of a car she acquired through a hire purchase agreement financed by Creation Consumer Finance Limited (CCF).

What happened

In January 2022 Miss L acquired a used car through a hire purchase agreement financed by CCF.

In November 2023 Miss L noticed the oil light illuminate. Then when she turned the ignition back on the engine was loud and rattling with little acceleration. Miss L said she took the car to two garages, one independent and one manufacturer garage, who both said the engine was damaged beyond repair.

Miss L complained to CCF in November 2023 and asked for the vehicle to be repaired or replaced.

CCF asked Miss L to provide a report evidencing that the fault was present or developing at the time the vehicle was supplied to her. They asked for this in November 2023, December 2023, and January 2024. No report was received, and so in January 2024 they sent Miss L their final response to her complaint. They said they'd received no evidence that the fault was present or developing at the point of sale, and so they didn't uphold Miss L's complaint.

Unhappy with their response, Miss L brought her complaint to this service. She said the fault was a manufacturer issue, but no one was taking responsibility for it.

Our investigator gave her view that she was persuaded there was a fault with the turbo, and that this part wasn't reasonably durable. So, she didn't think the car was of satisfactory quality at the time it was supplied to Miss L. She thought that repair was reasonable in the circumstances and CCF should cover the cost of this. She also thought that CCF should refund Miss L for her monthly payments from when she stopped using the car in November 2023 to the date of repair, plus interest, refund the cost of the diagnostic report Miss L had completed, plus interest, and pay Miss L £200 for the distress and inconvenience caused.

CCF disagreed and asked to complete an independent inspection as they didn't think the report provided by Miss L showed that the fault was present or developing at the point the car was supplied to her.

Our investigator said she thought there was enough evidence to show that the part wasn't reasonably durable, and this is what made the vehicle of unsatisfactory quality at the time of supply. CCF accepted this and agreed to put things right in the way our investigator had recommended.

Miss L didn't agree. She said there was a high chance of the fault reoccurring and so she didn't trust a repair. And she'd now obtained a new car and no longer required this one. She didn't agree that repair was a reasonable option because it hadn't been completed in line with requirements in the Consumer Rights Act – that is to be done in a reasonable timeframe

and without significant inconvenience. Miss L felt that CCF had already had an opportunity to repair the vehicle when she complained to them, and so she now wanted to reject the car.

As an agreement can't be reached, the case has been passed to me for a 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's fair and reasonable, I need to have regard to the relevant law and regulations. The agreement in this case is a regulated hire purchase agreement – so we can consider a complaint relating to it. CCF as the supplier of the goods under this type of agreement is responsible for a complaint about their quality.

The Consumer Rights Act 2015 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 other relevant factors. Those factors, in the case of a car purchase, will include things like the age and mileage of the car at the time of sale, and the car's history.

The quality of the goods includes their general condition and other things like their fitness for purpose, appearance and finish, safety and durability.

Here, the car was acquired used with a cash price of around £14,000. It was around three years old and had travelled approximately 49,500 miles at the time of supply. With this in mind, I think it's fair to say that a reasonable person would expect the level of quality to be higher than a cheaper, older, vehicle, but that it might have already suffered some wear and tear and require repairs.

I've seen evidence that the turbo on Miss L's car failed in November 2023, when the car had travelled around 79,000 miles. Miss L has provided the service history for the car, and I can see it's been serviced in line with manufacturer instructions, so there's no suggestion that the parts have failed as a result of poor maintenance.

I think a reasonable person would expect parts like the turbo to last upwards of 100,000 miles in a well-maintained car, and it appears to have failed earlier than expected here. So, on the balance of probabilities, I'm persuaded that the car was not reasonably durable, and therefore was not of satisfactory quality at the time of supply.

Putting things right

Having made that finding, I need to decide what, if anything, CCF should do to put things right.

The Consumer Rights Act sets out the remedies available where goods are considered not to be of satisfactory quality and one of the remedies is to allow an opportunity to repair the goods. That repair should be done in a reasonable time, and without significant inconvenience to the consumer.

Miss L said that CCF had their opportunity to repair the car. Whilst I appreciate that Miss L made her complaint to CCF in November 2023, I don't think they've yet had the opportunity to return the car to a satisfactory condition by way of repair. The car hasn't been returned to

the supplying dealership for repair, nor have CCF had an opportunity to review a repair estimate.

It's not clear exactly what repairs are required to return the car to a satisfactory condition. Miss L has said the engine has failed, and the report provided says that engine failure is suspected, but this is not confirmed. It is possible that repair of the turbo may be able to return the car to a satisfactory condition.

All things considered, I'm satisfied that repair is a reasonable solution in the circumstances, and that CCF should be allowed their one attempt to return the vehicle to a satisfactory condition.

CCF have said that they're unable to arrange for repairs and have asked Miss L to provide an estimate for their review. I think this is reasonable, and Miss L should provide an estimate for CCF to consider. They should then cover the cost of repairs. Should CCF find that repairs are not economical to make, they may wish to offer rejection of the vehicle to Miss L, but I'm satisfied that this would be their choice following receipt of the estimate.

Miss L has been unable to use the vehicle since November 2023. This is a result of it being of unsatisfactory quality, and Miss L has not been kept mobile by CCF during this time. So, CCF should refund the monthly payments Miss L has made from November 2023 until the repair is completed, plus interest.

Miss L paid £139.20 for the report to evidence that the vehicle was of unsatisfactory quality, and so CCF should refund her this cost, plus interest.

Miss L has been put to distress and inconvenience in being supplied with a car that wasn't of satisfactory quality. She's had to spend time taking the vehicle to be diagnosed and has waited some time for repairs to be completed. Our investigator recommended that CCF pay Miss L £200 compensation to reflect this. All things considered, I think £200 fairly reflects the distress and inconvenience caused.

My final decision

My final decision is that I uphold this complaint, and Creation Consumer Finance Limited must:

- Cover the cost of repairs to the car, upon receipt of an estimate from Miss L
- Refund the monthly payments made by Miss L from November 2023 until the date of settlement, plus 8% simple yearly interest from the date of payment to the date of settlement
- Refund Miss L £139.20 for the diagnostic report, plus 8% simple yearly interest from the date of payment to the date of settlement.
- Pay Miss L £200 compensation to reflect the distress and inconvenience caused

If CCF considers that it's required by HM Revenue & Customs to withhold income tax from the interest part of my award, it should tell Miss L how much it's taken off. It should also give Miss L a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 18 July 2024.

Zoe Merriman
Ombudsman