

The complaint

Mr S complains about the quality of a car supplied to him by Lendable Ltd trading as Autolend ("Lendable").

What happened

Mr S acquired a used car under a 50 month hire purchase agreement with Lendable in January 2024. The car cost around £5,257 and Mr S said he part exchanged his previous car and made a cash payment of £150. The total deposit was £700. Under the agreement, Mr S was required to make 49 payments of £149.59, followed by a final payment of £151.10 if he wanted to keep the car. The total amount payable under the agreement was £8,206.01. At the time the car was supplied to Mr S, it was around 10 years old and the mileage was 66,441. The car was supplied by a garage I'll refer to as "D".

The day after Mr S was supplied the car, he contacted Autolend and said the car had poor paintwork. Mr S told Autolend he was aware of this at the time he collected the car, but as he was part-exchanging his previous car, he decided to take this car away. Mr S said he was told by his local garage that the car had been in an accident.

Autolend issued its response to Mr S's complaint. It said that there was no evidence that the car had been in an accident and urged Mr S to collect the car from D, as it would begin to start charging storage fees. It also said there was no mention of any structural, mechanical or electrical issues. Instead a report from a third party garage said workmanship was the reason the car had been in an accident. It said it completed a HPI check and there was no record that the car had been in an accident. Autolend also said that Mr S inspected the car on two occasions and asked D to replace the cambelt, water pump and tensioners before he agreed to acquire the car. He also asked it to complete a full service. It said Mr S inspected the car on a third occasion and then accepted its condition. Mr S told Autolend he wouldn't be collecting the car as it was junk.

Unhappy, Mr S referred a complaint to this service. He said the passenger side of the car had filler in it and the panels didn't line up straight. He said he took the car to a bodywork company who said the car had been in an accident and repaired to a poor standard. He says he was told it would cost £3,500 to repair and that it didn't want to complete the repairs. He says Autolend told him D said it would take back the car if Mr S agreed to pay £700 for the cost of the cambelt replacement the garage had carried out. Mr S said he was unemployed and couldn't afford to pay any further amounts to Autolend. Mr S also told this service he didn't spend long looking at the car due to poor weather and health conditions. He said D had lied about how many times he had gone to see the car.

Our investigator looked into the complaint and said whilst he was satisfied there was a fault, it didn't make the car of unsatisfactory quality. This was because the issues appeared to be cosmetic and there was no suggestion the car had been involved in an accident on official records. He also said the issues should have become apparent to Mr S at the time he inspected the car.

Lendable agreed. Mr S disagreed. He said it was cold and wet on the day he collected the car and so, he didn't spend time looking at it. He said Lendable had lied and the damage wasn't fair wear and tear. He also said that Lendable should check whether people it lends

to are employed or not and to make sure they had the means to pay for the car before lending to them.

As Mr S remains in disagreement, the case has been passed to me to decide.

As part of this decision, I won't be considering Mr S's complaint about the checks Lendable carried out when deciding to lend to him. This is because Mr S doesn't appear to have complained to Lendable about this. If Mr S wants to pursue a complaint about this, he will need to complain to Lendable in the first instance and if he remains unhappy with its response, he may be able to refer a complaint to this service subject to it meeting the relevant jurisdiction criteria.

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.

Where evidence is incomplete, inconsistent or contradictory, I reach my view on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time.

Both parties have provided a good deal of evidence, so I've had to summarise things in this decision. The rules of our service allow me to do this, but I want to assure the parties, if I don't mention every single point that's been raised, it's not because I haven't thought about it. I have considered everything that's been said and sent to us. However, I'm going to concentrate here on what I consider is key to reaching a fair and reasonable outcome overall.

What I need to decide in this case is whether the car supplied to Mr S was of satisfactory quality. If I don't think it was, I'll need to think what's fair, if anything, to put things right.

The finance agreement in this case is a regulated hire purchase agreement. So our service is able to consider complaints relating to it. Autolend is the supplier of the car under this type of agreement and so is responsible for dealing with a complaint about its quality.

The Consumer Rights Act 2015 ("CRA") covers hire purchase agreements. Under a hire purchase agreement, there are implied conditions that the goods supplied will be of satisfactory quality.

Mr S acquired a car that was used – so there would be different expectations compared to a new car. Having said that, the car's condition at the point of supply, should have met the standard a reasonable person would consider satisfactory, taking into account its age, mileage and price. The CRA says the aspects of the quality of the goods includes their general state and condition alongside other things such as their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability.

In this case, Mr S first raised issues with the car the day after he was supplied it. A report has been provided from a third party garage which says:

"The vehicle has been in an accident, the workmanship has been very poor. There are issues with the repairs carried out to this vehicle that [customer] was not informed of...quarter panel on the n/side rear has been replaced very poorly, i.e. No boot gap, poor sealing of the panel, the door appature [sic] is badly repaired, the front bumper has been poorly painted along with the n/s/f wing and the poor repair to the o/s/f door appature [sic] is poorly repaired/painted. The workmanship to this vehicle is very poor and would recommend the vehicle not to be sold from a dealership."

Based on this, I'm satisfied that there is a fault with the car as a third party garage confirmed there were faults to some areas of the bodywork. I now need to consider whether these faults make the car of unsatisfactory quality.

I've considered the extensive number of pictures and a video that Mr S has provided. Having done so, there isn't anything from the bodywork that I think is unreasonable to expect from a car that was 10 years old and had covered around 66,441 miles at the time it was supplied. Mr S hasn't said the car doesn't drive correctly or that it's got any mechanical faults. Neither has the third party garage. I can also see that the car passed an MOT around three days before the car was supplied to Mr S. This confirms that the car was roadworthy.

There is also conflicting testimony about how many times Mr S viewed the car prior to agreeing to acquire it. Mr S says D has lied about this and Autolend have provided a timeline to confirm when Mr S went to see the car. Mr S also told Autolend that he knew of the issues with the car before taking the car away, but later said he didn't inspect the car as it was raining. I also understand that there's no dispute from either party that Mr S viewed the car and asked D to replace the cambelt, water pump, tensioners and asked it to carry out a full service before he agreed to acquire the car. I consider it likely that if Mr S reviewed the car to the extent that he noted these things needed to be replaced, he would have also had the opportunity to look at the bodywork.

The CRA makes reference to goods that are viewed by consumers before they agree to a contract. It says:

“9 Goods to be of satisfactory quality

- (1) Every contract to supply goods is to be treated as including a term that the quality of the goods is satisfactory....*
- (4) The term mentioned in subsection (1) does not cover anything which makes the quality of the goods unsatisfactory—*
 - (a)which is specifically drawn to the consumer's attention before the contract is made,*
 - (b)where the consumer examines the goods before the contract is made, which that examination ought to reveal.”*

I consider that it's more likely than not that Mr S was provided with an opportunity to look at the bodywork of the car and that the examination ought to have revealed that there were issues with the bodywork of the car, before Mr S acquired it. I don't consider that D needed to tell Mr S about the bodywork as the extent of it, which Mr S has demonstrated through pictures, is apparent. There is also no supporting evidence to confirm that the car has been in an accident. HPI records don't show this and although the third party garage has provided its opinion to say the car has been in an accident, this isn't conclusive.

Having thought about all of this carefully, I don't think the faults with the car make the car of unsatisfactory quality. I consider that the issues with the car are commensurate with a car of its age and mileage and that the issues could reasonably be expected taking these factors into account. It follows that I'm not asking Autolend to do anything.

My final decision

I do not uphold Mr S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 7 November 2024.

Sonia Ahmed
Ombudsman