

The complaint

Mr P complains that the car he acquired through a hire purchase agreement with Zopa Bank Limited trading as Zopa wasn't of satisfactory quality. He wants to reject the car.

What happened

Mr P acquired a used car through a hire purchase agreement with Zopa in March 2023. Shortly after acquisition he experienced an issue with the clutch. The dealership carried out a repair and Mr P opted to have a clutch which included a racing clutch for which he contributed around £500. Additional to the clutch replacement a further issue was identified, and a spark plug replaced. In October 2023, Mr P said he experienced further issues with the clutch slipping and the car went for further investigation. At this point it was identified that a new engine was required. The dealer wanted Mr P to contribute at least £2,000 towards the repair. Mr P raised a complaint with Zopa.

Zopa issued a final response to Mr P's complaint dated 24 November 2023. It noted that Mr P had experienced issues with the car shortly after acquisition and these had been repaired by the dealer. However following the repairs, Mr P identified further issues and the car was sent for investigation. This identified that the car needed a new engine. Zopa said that the dealer had said that the issues with the car had developed due to Mr P's driving style and so it wouldn't be covering the cost of the repairs. Zopa contacted Mr P about this and said that he would need to provide evidence the faults were present or developing at supply. It said that without this evidence the complaint wasn't upheld.

Mr P referred his complaint to this service.

Our investigator upheld this complaint. She noted the issues Mr P experienced with the car in the first few weeks and the repairs that were undertaken. While she noted Mr P didn't pay for these repairs, she also noted that he wasn't kept mobile during this time and recommended that he be refunded his rentals for this period.

Our investigator then considered the current fault. She noted this occurred around 6 October 2023, and that it had been suggested the issue arose due to Mr P's driving style. However, she said no evidence had been provided to support this. She considered the timing and the nature of the issue and didn't think a reasonable person would expect to need to replace the engine after having the car for six months. Noting the time Mr P had the car and the mileage covered she didn't think the issue with the engine was due to wear and tear and she thought the car wasn't of satisfactory quality at supply. Given the experience Mr P had had and the repairs already undertaken she thought it fair that Mr P be allowed to reject the car, have his deposit refunded and his rentals refunded for the time he hadn't been able to use the car.

Zopa didn't agree with our investigator's view. It said that under the Consumer Rights Act 2015 (CRA 2015), as Mr P had had the car for more than six months when the issue arose, the onus was on Mr P to confirm that any fault was present or developing at the point of supply. It said there was no evidence that the current issue was linked to the clutch repair or that it was present at supply. It accepted that Mr P wasn't kept mobile while the clutch repair took place and agreed to refund him a week of rentals. It said that if Mr P did provide an

independent inspection that confirmed the fault was present or developing at supply it would consider this and reimburse the cost of the report.

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.

Mr P acquired a used car through a hire purchase agreement with Zopa. Under the regulations, Zopa can be held liable if the car wasn't of satisfactory quality at the point of supply. The CRA 2015 is particularly relevant to this complaint. While I take all relevant rules, regulations and legislation into account, my decision is based on what I consider fair and reasonable given the unique circumstances of the complaint.

The CRA 2015 says the quality of goods are satisfactory if they 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. In cases involving cars, it is reasonable to take into account factors such as the car's age, mileage and cost when assessing satisfactory quality. In this case, the car was over seven years old and had been driven over 80,000 miles at acquisition. Given this it is reasonable to expect it to have some wear and tear and it is possible that issues could arise shortly after acquisition even if not present at supply. That said, we would expect the car to be sufficiently durable taking into consideration its age, mileage and price.

Mr P entered into a hire purchase agreement dated 28 March 2023 and says he collected the car a few days later. He experienced issues shortly after this and repairs were undertaken with the clutch and a spark plug being replaced. I don't think it was reasonable that Mr P experienced issues with the car so soon after acquisition, but I have nothing to show that he asked at that time to reject the car (under the short term right to reject) and as he accepted the offer of repair, I find this a reasonable remedy. That said, I agree with our investigator that as Mr P wasn't kept mobile while the car was being repaired, he should be refunded the payments relating to the time he was without the use of the car.

Mr P had use of the car following the initial repairs, but a further issue arose. Mr P has described the issue as the clutch slipping but said that as the clutch had been replaced, he was concerned that there were other issues with the car. He says he stopped driving the car as he didn't want to cause further damage and contacted the dealer. The car was returned to the dealer on 6 October 2023, but Mr P said it took time to make contact with the dealer and the issue had been present for a couple of weeks before this date. Based on Mr P's comment the issue arose just within six months of him acquiring the car, although I note that the car was returned to the dealer just outside of six months.

When assessing car complaints, I can only hold the finance provider liable if I am satisfied that there is a fault with the car and that the car wasn't of satisfactory quality at the point of supply. In this case, repairs were undertaken within the first few weeks confirming faults with the car at that time. And the dealer has carried out an investigation on the car since it was returned on 6 October and confirmed further faults. Therefore, I accept there were faults present with the car at acquisition and that there is an ongoing fault.

I note the comment Zopa has made about Mr P having the car for over six months before the current fault was reported and so the onus being on him to evidence that the fault was present or developing at supply. However, having considered when the current fault was identified by Mr P, and the other evidence provided in this case, I find I have enough to make a decision as to whether or not the car was of satisfactory quality at the point of supply.

Taking into account the first issues were raised within the first few weeks, I find the car wasn't of satisfactory quality at supply. But these issues were repaired and so I have then considered the current fault. While the dealer has suggested that the issue with the car is due to Mr P's driving style, no evidence has been provided to support this. I note that the clutch replacement undertaken by the dealer was with a racing clutch and so I do not think it unreasonable that Mr P would use racing mode when driving the car.

Zopa has said the current issue isn't linked to the initial repairs, but I note that the initial repairs were due to issues identified with the clutch and Mr P described the current issue as the clutch slipping. Given this I don't find it unreasonable to think that the current issue may have been present or developing at supply but not fully identified until after the initial repairs had taken place. But putting that to one side, I find that the car needing a new engine after only six months (and Mr P driving it around 3,000 miles) during which the car had been returned to the dealer for other repairs, suggests the car hasn't been sufficiently durable.

Taking all of the above into account, I do not find that the car supplied to Mr P was of satisfactory quality and therefore I am upholding this complaint.

Having considered the unique circumstances of this complaint, including that the car has been in for repairs, I find the fair resolution is for Mr P to be allowed to reject the car. This means the car will be returned at no cost to Mr P, his deposit refunded, and his finance agreement cancelled. I have also considered that Mr P has been without use of the car both during the initial repair and since 6 October when the car was returned to the dealer. As he wasn't kept mobile during these periods, I find it fair that any repayments for these times are refunded. Mr P would remain liable for any other repayments for the period when he did have use of the car.

Putting things right

Zopa Bank Limited trading as Zopa should:

- end the agreement with nothing further to pay;
- collect the car (if this has not been done already) at no further cost to Mr P;
- refund Mr P any deposit contribution he paid (recorded in the hire purchase agreement as £2,000);
- refund the Mr P rentals relating to the periods when Mr P didn't have use of the car being when the car was at the dealer for the initial repairs and for the period from 6 October 2023 to the date of settlement;
- pay 8% simple yearly interest on all refunded amounts from the date of payment until the date of settlement*; and
- remove any adverse information from the customer's credit file in relation to the agreement.

*HMRC requires Zopa to deduct tax from the interest. Zopa should provide Mr P with a certificate showing how much has been deducted, if he asks for one.

My final decision

My final decision is that I uphold this complaint. Zopa Bank Limited trading as Zopa should take the actions set out above in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 14 October 2024.

Jane Archer
Ombudsman