

## **Complaint**

Miss B has complained about what Marsh Finance & Commercial Limited (“Marsh Finance”) has done to put things right after it accepted that it supplied her with a car that was not of satisfactory quality through a hire-purchase agreement.

## **Background**

In October 2023, Marsh Finance provided Miss B with finance for a used car. The car had completed just under 100,000 miles and was approaching ten years old. The cash price of the vehicle was £7,689.00. Miss B didn’t pay a deposit and applied for finance to cover the entire amount.

Marsh Finance accepted Miss B’s application and entered into a 36-month hire-purchase agreement with her. The loan was for £7,689.00, had an APR of 21.4%, interest, fees and total charges of £2,533.48 and the total amount to be repaid of £10,222.48 was due to be repaid in 35 monthly instalments of £283.68 followed by a final monthly payment of £293.68.

I understand that Miss B experienced a number of issues with the gearbox on the car. The information provided indicates that there is an acceptance that she may have been misled to believing that the car had a single previous owner when in fact had three previous owners. Marsh Finance accepted that the vehicle it supplied was not of satisfactory quality and that Miss B had been misled by the supplying dealer. It agreed to end Miss B’s agreement and it would refund a proportion of Miss B’s payments. Miss B was unhappy with this and referred her complaint to our service.

One of our investigators reviewed everything provided and concluded that Marsh Finance needed to return all of the payments Miss B made after notifying it of the fault on the car. The investigator also told Marsh Finance that Miss B had incurred consequential losses as a result of having to pay to hire a car in the period while Marsh Finance was arranging for the agreement to be unwound.

As a result, she thought it was fair and reasonable for Marsh Finance to refund the difference between the hire car charges Miss B paid during the period and the hire-purchase charges that Marsh Finance had already agreed to refund. She calculated this difference to be £419.79.

Miss B accepted the investigator’s assessment but Marsh Finance did not and asked for an ombudsman’s decision. As this is the case, the complaint was passed to an ombudsman for review.

## **My findings**

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

The finance agreement in this case is a regulated hire-purchase agreement, which we are able to consider complaints about. Under the hire-purchase agreement, Marsh Finance purchased the vehicle from the dealership Miss B visited. Miss B then hired the vehicle from Marsh Finance and paid a monthly amount to it in return. Marsh Finance remained the legal owner of the vehicle under the agreement until Miss B's loan was repaid.

This arrangement resulted in Marsh Finance being the supplier of Miss B's vehicle and so it is also responsible for answering a complaint about its quality.

Having carefully considered matters, I'm satisfied that, as the parties are in agreement that it wasn't, I don't need to decide whether the car supplied to Miss B was of satisfactory quality. All I need to decide here is whether what Marsh Finance has agreed to do to put things right for Miss B is fair and reasonable in all the circumstances of her complaint.

Having considered the available evidence, I'm in agreement with our investigator that Marsh Finance needs to do a bit more to put things right for Miss B. I'll now proceed to explain why I think that this is the case in a bit more detail.

Miss B rejected the car and Marsh Finance has already accepted that it is appropriate for her to do so. It is my understanding that Marsh Finance has already ended Miss B's agreement and collected the vehicle from her. The information provided also suggests that it has also refunded the monthly payments Miss B made in January 2024 and February 2024. Marsh Finance is satisfied that this represents a fair and reasonable solution to Miss B's complaint.

However, Miss B doesn't think that this goes far enough. She says that being supplied with a car that wasn't of satisfactory quality left her without a vehicle and as she needed a car to get to work she had to hire one until the matter was resolved. This is particularly as there was a period where she did not know if the agreement would be unwound. On the other hand, I note that Marsh Finance has said that as the car wasn't rejected rather than repaired, it wasn't responsible for providing a loan car.

I've carefully thought about the arguments made by both parties.

I appreciate that the car was rejected and not repaired. However, it's fair to say that there was a period where Miss B was in a position where she had a car that was not of satisfactory quality and it could not be used as a result. As the hire-purchase agreement was still live until the matter was resolved, Miss B was still in the position where this hampered her ability to obtain an alternative.

Given I'm persuaded that Miss B did need a vehicle to get to work, I don't think that it was unreasonable for her to have hired replacements in order to keep working. Indeed, this was a reasonable attempt to mitigate her losses as not going to work would have had far greater consequences. And I don't think that it would have been reasonable for her to instead take this course of action.

I've also considered the cars that Miss B did hire. The cars hired, at least in terms of make and model, do appear to be broadly comparable to one Marsh Finance supplied to Miss B. Nonetheless, I have also kept in mind that the vehicle Marsh Finance supplied was almost ten years old and had completed nearly 100,000 miles. The cars that Miss B hired were substantially newer and had significantly lower mileages than this and as a result I can understand why Marsh Finance may consider that they were not like for like.

However, the reality is that Miss B would not have been able to, or at the very least would have found it extremely difficult to, hire a car of a similar age and mileage to the one that wasn't of satisfactory quality. As this is the case, I don't think the fact that Miss B hired newer

cars, which most, if not all, hire car companies are only able to provide, means that it would be fair and reasonable for her to bear the cost of needing to find alternative transport, while Marsh Finance was determining what it was going to do in response her complaint.

Having considered all of this, I'm satisfied that the extra Miss B had to pay as a result of having to hire cars are consequential losses she incurred as Marsh Finance supplied her with a car that wasn't of satisfactory quality. As this is the case, I think that Marsh Finance should pay Miss B £419.79, which is the difference between the amount Miss B paid for hire cars after notifying Marsh Finance the car it supplied was not of satisfactory quality and the refund it made, as this is an additional amount she had to pay as a consequence of what went wrong here. Marsh Finance should also add interest to this at 8% a year simple from the date that the hire-purchase agreement was unwound to the date of settlement.

### **Fair compensation – what Marsh Finance needs to do to put things right for Miss B**

Overall and having considered everything, I think it is fair and reasonable for Marsh Finance to put things right for Miss B by:

- reimbursing her £419.79 as it is the difference between the payments that have already refunded and the amount Miss B had to pay in order to have a car to get to work;
- adding interest at 8% per year simple on the £419.79 from the date the hire-purchase agreement was unwound to the date this amount is now paid†;

† HM Revenue & Customs requires Marsh Finance to take off tax from this interest. Marsh Finance must give Miss B a certificate showing how much tax it has taken off if she asks for one.

### **My final decision**

For the reasons I've explained, I'm upholding Miss B's complaint and Marsh Finance & Commercial Limited to put things right in the way I've directed it to do so above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 14 March 2025.

Jeshen Narayanan  
**Ombudsman**