

The complaint

Miss M complains that a car supplied to her under a hire purchase agreement by Advantage Finance Ltd (“Advantage”) was not of a satisfactory quality.

What happened

In October 2022, Miss M was supplied with a used car through a hire purchase agreement with Advantage. The agreement was for £7,390 over 60 months, with monthly repayments of £257.91. At the time it was sold, the car was over nine years old and had done around 85,600 miles.

Miss M says that the car has suffered with oil loss ever since it was supplied. She says that it has broken down on a number of occasions. The car was inspected by a main dealer of its manufacturer in January 2023. That inspection reported there was no external oil leakage, but there might be an internal leak – the report noted that the engine oil tank was empty. And Miss M says the car was later taken for a longer two-week test by the dealer that resulted in over 1,000 miles being driven in the car.

Advantage has arranged two independent inspections of Miss M’s car, in March 2023 and in April 2024. Both those inspections concluded that it was unlikely that any faults with the car was present, or developing, at the time it was supplied. They noted that Miss M had used the car for over 10,000 miles in the first six months of its life, and then added a further 16,000 miles in the following year. The car had also successfully passed MOT tests just before it was supplied and in the following October. So Advantage didn’t think it had done anything wrong. Unhappy with that response Miss M brought her complaint to us.

Miss M’s complaint has been assessed by one of our investigators. She thought that the evidence suggested the problems being faced by Miss M with her car were as a result of normal wear and tear rather than the car not being of a satisfactory quality when it was supplied. So she didn’t think Advantage was responsible for those problems or that the complaint should be upheld.

Miss M didn’t agree with that assessment. So, as the complaint hasn’t been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process.

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 deciding this complaint I’ve taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Miss M and by Advantage. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words

I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

At the outset I think it is useful to reflect on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

Miss M was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to look into complaints about it. The relevant law – the Consumer Rights Act 2015 (CRA) - says, amongst other things, that the car should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of finance used to purchase the car, Advantage is responsible. What's satisfactory is determined by what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history.

The CRA also implies that, where a fault is identified within the first six months, it's assumed the fault was present when the car was supplied. So here I will consider when the faults can reasonably be considered to have occurred. If that is not within the first six months it would be for Miss M to establish that any faults were present at the time of sale.

The car that was supplied to Miss M was relatively old. It had already travelled a considerable mileage and, as Miss M accepts, it was sold to her without a full service history. So I don't think it would be unreasonable to expect that a number of components in the car might have suffered some considerable wear over their lifetime. I think all those problems with the car would have been reflected in the price that Miss M agreed to pay – a price that was far lower than for a new, or nearly new, model of the same car.

I have noted that over the 18 months between the car being supplied to Miss M and this complaint being made, the car has travelled over 26,000 miles. And during that time it has had four independent inspections – a MOT test at the time it was supplied, a further MOT test a year later, and two inspections arranged by Advantage. And although Advantage arranged and paid for those two inspections the reports are clear – the inspector has an over-riding duty to the Courts as set out in part 35 of the Civil Procedure Rules. The inspectors confirmed those duties had been fully complied with.

I entirely accept that, by the time of the report in April 2024, a major fault was present with the engine of Miss M's car meaning that it couldn't be started. But as I have said earlier it doesn't seem any problems have prevented Miss M from making extensive use of the car, and it passing an MOT test six months earlier. I am persuaded by the conclusions of the independent expert that Miss M's usage of the car wouldn't have been possible had an engine defect such as that now seen been present during the whole time she had the car.

The earlier inspections by the main dealer does suggest that there was some oil consumption that might be considered greater than normal for a new engine. But as engine parts age and wear increased amounts of oil consumption are very normal. I do however think it important to note that both the main dealer's inspections, and the independent inspection, didn't find any evidence of oil leakage outside the engine. That would suggest to me that any internal leakage problems were most likely as a result of age-related wear and tear, perhaps compounded by a lack of appropriate maintenance earlier in the car's life.

I have no doubt how disappointing this decision will be for Miss M. She is making monthly repayments for a car that she cannot drive and will most likely be uneconomical to repair. But the evidence I have seen doesn't lead me to a conclusion that there was a fundamental fault with the car when it was supplied to her. In the 18 months that Miss M was able to use the car it travelled over 26,000 miles. So it seems that the engine problems are likely to have developed over time and be the result of normal wear and tear. So I don't think Advantage is responsible for any repairs needed to the car.

My final decision

For the reasons given above, I don't uphold the complaint or make any award against Advantage Finance Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 25 November 2024.

Paul Reilly
Ombudsman