

The complaint

Mrs P complains about a car that she acquired using a hire agreement with RCI Financial Services Limited (“RCI”). She says the handbrake was faulty and this caused damage to the car.

What happened

In October 2021, Mrs P entered into a three-year hire agreement with RCI for a new car. She says that, on 9 July 2023, the handbrake failed to hold the car in position causing it to roll backwards and sustain cosmetic damage.

Mrs P took the car to a dealership a week later. They found that the handbrake cable had developed slack and needed tightening. At this point, the car had travelled 5,776 miles. The dealership carried out adjustments to the handbrake and was given back to Mrs P. However, she says the car was damaged as a result of what had happened and that RCI should arrange for this to be repaired.

Mrs P complained to RCI. As they didn’t provide her with a full response to her complaint, she referred the matter to us. One of our investigators recommended that the complaint should be upheld. She said, in summary, that the car wasn’t of satisfactory quality when it was supplied to Mrs P and recommended that RCI arrange to repair the car at no cost to her. Our investigator also recommended that RCI pays £250 to Mrs P for the distress and inconvenience she’d been caused and to remove any adverse information from her credit file in respect of the hire agreement.

Mrs P agreed with our investigator’s recommendation. However, RCI didn’t. They said there was no evidence of a manufacturing defect with the car and no issue was found with the handbrake during the service completed in October 2022 (which preceded the incident in question). RCI said they would have expected this issue to have occurred prior to when it did, had there been a manufacturing defect. RCI also forwarded comments from the manufacturer who said that Mrs P would have been aware that the ‘notches’ required to pull the handbrake up had altered and she should have asked someone to look at the car at that point rather than allow further degradation. And they said Mrs P didn’t leave the car in gear when it was parked, and this was what caused the car to roll backwards.

As the matter remains unresolved, Mrs P’s complaint 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.

Mrs P acquired the car through a hire agreement with RCI. As the supplier of the car, RCI is responsible for the quality of the car. These requirements are set out in The Consumer Rights Act 2015 (“CRA”). The CRA implies terms into the contract between Mrs P and RCI

that the car will be of satisfactory quality. Satisfactory quality is what a 'reasonable person' would expect, considering amongst other things the age and price of the car.

Section 9 of the CRA refers to satisfactory quality and notes that the quality of goods includes their state and condition. It goes on to list the following aspects, amongst others, of the quality of goods: (a) fitness for all the purposes for which goods of that kind are usually supplied; (b) appearance and finish; (c) freedom from minor defects; (d) safety; (e) durability.

When assessing whether Mrs P's car was of satisfactory quality, the fact the car was new is a relevant consideration here. I think the expectations around the quality, and therefore durability, of the car are higher here than when acquiring a used car. Also relevant in my view is the fault or failure and the timing or mileage of the fault.

I've seen the invoice for the work carried out on the car in July 2023, which was shortly after Mrs P says the handbrake failed to hold the car in position. The invoice clearly shows in my view that there was an issue with the handbrake. The comments in the invoice states that the garage 'confirmed customer concerns of handbrake issue'. And work was carried out by them to adjust and tighten the handbrake cable.

I agree that a handbrake is a serviceable item, that is subject to wear and tear as RCI states. And I note that the problem with the handbrake happened nearly two years after Mrs P acquired the car. However, the issue occurred when the car had covered less than 6,000 miles. I don't think a 'reasonable person' would have expected the handbrake to develop a problem so soon in a brand-new car and with such low mileage.

RCI has forwarded comments from the manufacturer essentially blaming Mrs P for leaving the car in gear. That seems speculative in my view, and I've seen no evidence to support that Mrs P did this. Nor do I think it reasonable for Mrs P to have noticed the 'notches' on the handbrake altering. I think it more reasonable for her to have expected the handbrake would operate as expected and as intended for much longer than it did.

Having considered what the CRA sets out about durability, I think a reasonable person would not expect the handbrake to have required repairs carried out at such low mileage. This in my view demonstrates the car, or more specifically the handbrake and its components, were not sufficiently durable. And because of this, the car wasn't of satisfactory quality as required and as set out in the CRA.

As I've found the car wasn't of satisfactory quality, I will now consider what is required to put things right.

Putting things right

I understand that the issue with the handbrake hasn't reoccurred. However, Mrs P says the car suffered cosmetic damage as a result of what happened. I've seen photos of damage to the back of the car, and on balance, I find it likely this was caused because of the failure of the handbrake to hold the car in place.

Because of this, I consider it reasonable for RCI to arrange to repair the damage to the car at no cost to Mrs P. I find also that Mrs P was caused distress and inconvenience by being supplied with a car that wasn't of satisfactory quality. This has understandably had an impact on her, and I consider it reasonable that RCI makes a payment to reflect this. A sum of £250 is reasonable in my view considering the circumstances of this complaint.

Our investigator recommended that RCI removes any adverse information from Mrs P's credit file in relation to this agreement. I'm not aware that any such information has been

recorded. But for completeness, I agree that this should be removed if any has been recorded as a result of this dispute.

My final decision

My final decision is that I uphold Mrs P's complaint. I direct RCI Financial Services Limited to settle the complaint by taking the action I've set out in the 'putting things right' section of my decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 5 September 2024.

Daniel Picken
Ombudsman