

## **The complaint**

Mr M is unhappy that a car supplied to him under a hire purchase agreement with CA Auto Finance UK Limited (CAAF) was of an unsatisfactory quality.

When I refer to what Mr M has said and what CAAF have said, it should also be taken to include things said on their behalf.

## **What happened**

In May 2023, Mr M was supplied with a used car through a hire purchase Personal Contract Purchase (PCP) agreement with CAAF. The cash price was £24,500 with an advance payment of £1,000.00 and £437.33 a month to be paid over 48 months with a final payment of £9,740.00. At the time of supply, the car was approximately three and a half years old and had done 46,900 miles. The maximum average mileage per year over the term of the PCP agreement was 8,000 miles per year.

Mr M complains there were faults with the car when he acquired it, in particular the windscreen wipers wouldn't work properly and as it was raining most of the time this meant he could not use the car. He complained that as he is self-employed he was losing money due to not being able to use the car. Mr M said he was still paying for the car but had no use of it as it was still with the dealership and the promised repairs had not taken place. Mr M wanted to be reimbursed for the payments and compensation for loss of earnings. He said there were over 40 faults with the car and if it was not repaired soon he wanted to reject the car.

In their response CAAF listed the issues Mr M had raised in his complaint to them as the windscreen wipers intermittently turning off, the radio fan not closing down, the button to change the drive mode not working, the temperature within the car dropping when driving and that he had found out the cost of the car was more than he had been told it was.

CAAF partially upheld Mr M's complaint. The cost of the car to Mr M was as shown in the agreement he had confirmed he had read and had signed, and so they did not uphold this part of his complaint, but they did uphold his complaints about the faults with the car.

In their final response letter of October 2023 CAAF said they had received the complaint from Mr M towards the end of August 2023. Correspondence received from the dealer who supplied the car, dated mid-September 2023, confirmed they had repaired all the faults Mr M originally raised except for the indicator stalk, which was on back order from the manufacturer. The dealer was unable to say when this would arrive as there were none in stock in Europe (Mr M confirmed the repair relating to the indicator stalk was completed in February 2024).

They also noted the dealer had recently updated them saying they would rectify all issues Mr M had subsequently raised including a problem with the Emergency Management Light and with the boot catch and asked Mr M to contact them to discuss compensation.

Mr M did not feel his issues had been resolved satisfactorily so he referred his complaint to the Financial Ombudsman Service for investigation.

After making his complaint Mr M reported he had found more faults with the car; these were an issue with the brake assist system and a smell of burning rubber and said that the car bumpers had been damaged during the repairs.

The dealer booked the car in with a specialist garage to look at the brake assist issue and this was completed approximately three weeks later. They also said they had investigated the burning smell but could not find any issue. Mr M later confirmed to us that the fault with the brake assist had been repaired.

CAAF said they had attempted to contact Mr M about compensation but had not been able to reach him, and that he had not contacted them. They said the car had been returned to Mr M following the repairs.

Our investigator said, having reviewed the evidence provided by both parties, he hadn't seen enough evidence to persuade him that there was a current fault with the car which could be linked to previous repairs that had failed, or to a fault that was present when the car was supplied. So, it would not be fair for him to instruct CAAF to accept rejection of the car.

He went on to say that although the Financial Ombudsman Service does not consider the rates at which a consumer is paid for their work, he could see that although CAAF had said they would discuss compensation with Mr M this had not taken place and so suggested CAAF should pay Mr M £200 for his distress and inconvenience.

Mr M didn't agree with the investigator. He said He had been supplied with a faulty car that was unroadworthy with a number of faults and that he had not had the car for four months but had had to pay for it during that time.

Because Mr M didn't agree, this matter has been passed to me to make a final 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.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is more likely to have happened given 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. Mr M was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we can investigate complaints about it.

The Consumer Rights Act 2015 (CRA) covers agreements such as the one Mr M entered into. Under this agreement, there is an implied term that the goods supplied will be of satisfactory quality. The CRA says that goods will be considered of satisfactory quality where they meet the standard that a reasonable person would consider satisfactory – taking into account the description of the goods, the price paid, and other relevant circumstances.

I think in this case those relevant circumstances include, but are not limited to, the age and mileage of the car and the cash price. The CRA says the quality of the goods includes their general state and condition, as well as other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability.

The car was over three years old when Mr M acquired it and had travelled 46,900 miles and did not cost as much as a new car would. So, I think a reasonable person would expect the car to be more worn and need repairs sooner than a brand new car would.

But if I thought the car was faulty when Mr M took possession of it, or that the car wasn't sufficiently durable, and this made the car not of a satisfactory quality, it would be fair and reasonable to ask CAAF to put this right.

First, I considered if there was a fault with the car. I've considered evidence provided by both sides and I am persuaded there was a fault with the car when supplied. This is based on the report that was completed and the fact that CAAF upheld Mr M's complaint. As such, I'm satisfied that I don't need to consider the merits of this issue within my decision. Instead, I'll focus on what CAAF have done or should do to put things right.

The CRA says a consumer has 30 days to reject faulty goods. After this, they have a right to ask the trader to repair the goods or replace them. And if the goods are still faulty after one attempt at repair or if repair is not completed in reasonable time, they have a final right to reject goods or receive a price reduction up to the full value of the goods. As the car was returned to the dealership outside of the 30 days since it was supplied to Mr M, he did not have the right to immediately reject the car and it was reasonable for the dealer who supplied the car to undertake a repair first. The dealer confirmed the repairs had been carried out within four weeks of the date when Mr M raised the complaint with CAAF. So, I think CAAF was reasonable to say that those faults which should be repaired had been repaired (save for the indicator) and that it didn't need to take any further action at this point. The only outstanding item was the indicator stalk, which was repaired as soon as possible when the part became available.

Mr M has subsequently complained about other issues with the car. However, I have not seen any evidence that these issues were present when the car was supplied, or that they are related to, or as a result of, the earlier repair being unsuccessful and so I am satisfied CAAF acted fairly and promptly in investigating the faults and repairing the car and have no reason to think it was not of a satisfactory standard once the repair was completed. Despite this these faults were also repaired and although Mr M remains unhappy, I have nothing that indicates there are any current faults with the car that were present at the time he acquired it or that are linked to the repairs that have been completed.

Mr M has complained about loss of use of the car. He says he was without the car for four months and had to make payments for the car during that time. He says he experienced loss of earnings as a result but has not provided details of when he was without the car or evidence of the loss of earnings.

The PCP agreement Mr M signed was for maximum average mileage per year over the term of the contract of 8,000 miles a year. When Mr M acquired the car at the end of May 2023 the mileage was 46,900. The mileage shown on an invoice dated early March 2024 is 54,969, which means the car had completed just over 8,000 in the first nine months since Mr M acquired it.

Although the mileage allowance in the PCP agreement was an average per year, I think it more likely Mr M agreed to 8,000 miles a year as approximately the amount of mileage he expected to complete each year. As Mr M had completed more than the expected annual

mileage in nine months, and without specific information as to when the car was not available to Mr M, I do not have evidence to support Mr M's complaint about loss of use and am not persuaded it would be fair to ask CAAF to compensate Mr M for this.

### **Putting things right**

However, it is clear that Mr M has been inconvenienced by having to arrange for the car to be repaired and he has said concerns he had about how this would affect his work affected his mental health so I think CAAF should pay him £200 in compensation to reflect the distress and inconvenience caused.

I appreciate Mr M will be disappointed with my decision but for the reasons stated I think CAAF have acted fairly, and I don't think it would be right to ask CAAF to do anything further in respect of Mr M's complaint.

### **My final decision**

For the reasons explained, I uphold Mr M's complaint about CA Auto Finance UK Limited in part.

Therefore, CAAF should:

- pay Mr M £200 to compensate him for the trouble and inconvenience caused by having to return the car for repairs.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 3 March 2025.

Jo McHenry  
**Ombudsman**