

The complaint

Ms P complains that the car she acquired from Honda Finance Europe Plc trading as Honda Financial Services (“HFS”) wasn’t fit for purpose. She also says she’s been inconvenienced by the circumstances that occurred due to the faulty car.

What happened

Ms P acquired a car on finance through a hire purchase agreement she entered into in March 2024. The car was a new car with a cash price of £52,664, Ms P paid a deposit of £47,664. This included her deposit, part exchange and an early settlement of a previous agreement. She borrowed £5,000 from HFS and the total cost of credit was £371.25.

The agreement was due to run for 25 months with an initial payment of £214.45, 23 payments of £214.25 and a final payment of £224.45, which included a £10 purchase fee.

The car broke down on 26 March 2024 - three weeks after Ms P acquired it, the car was taken to the dealer, and the electrical system was reset. This temporarily fixed the fault as the car broke down again on 11 April 2024 and it was confirmed there was an issue with the battery. The battery needed replacing but due to manufacturing delays, there was a back order of four months to get a replacement battery.

Ms P exercised her right to reject the car saying it wasn’t fit for purpose and raised a complaint with HFS. HFS investigated the complaint and agreed to uphold Ms P’s complaint. It unwound the agreement and refunded all the payments she made.

Ms P referred her complaint to the Financial Ombudsman Service. When it was referred to this service, HFS agreed to make a further award of £200 to compensate Ms P for the trouble and upset caused.

Our investigator looked at the complaint and concluded there was a fault with the car which was acknowledged by both parties and not in dispute. He said HFS had refunded all costs to Ms P and thought the offer of £200 was fair and reasonable.

Ms P disagreed, she said £200 doesn’t fairly reflect the trouble and upset HFS caused. Ms P said she paid £50 insurance on the car, although she didn’t have use of it for most of the period in question. She said had she placed her deposit of around £43,000 in a savings account, it would have yielded interest in that time, she says when she returned the car to HFS, it had a full tank of fuel which cost her £53. Ms P also says it took HFS too long to process the rejection of the vehicle and that caused her difficulties with rearranging plans, and not being able to make future plans as she was worried the courtesy car would be collected at any time.

As the complaint hasn’t been resolved, it has been passed to me, an ombudsman to decide.

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 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. Ms P was supplied with a car under a regulated consumer credit agreement which means we're able to look into complaints about it.

The crux of Ms P's complaint is that the car was faulty from the start and HFS' attempt to repair it failed. The alternative of waiting four months for a new battery made the car unfit for purpose. This, Ms P says gave her grounds to reject the car and end the contract.

So, what I need to decide here is whether the car supplied to Ms P was of satisfactory quality. If I don't think it was, I'll need to think about what's fair, if anything, to put things right. The Consumer Rights Act 2015 ("CRA") covers the agreement in this case and under this agreement, there are implied conditions that the goods supplied will be of satisfactory quality.

The car Ms P acquired was brand new. The car's condition should meet the standard a reasonable person would consider satisfactory, taking into account its age, mileage and price. Bearing this in mind, I don't think a reasonable person would expect a brand-new car to have any problems for a reasonable amount of time and I think they would have high expectations for the quality of the car.

The CRA says the aspects of the quality of the goods includes their general state and condition alongside other things such as their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability.

There is evidence from a garage that the battery on the car failed which means the battery is defective, making it undriveable. The garage has said the battery is on a back order and could take four months to arrive. This has meant Ms P hasn't been able to use the car as intended. Neither party disputes that the car has a mechanical fault.

The car is a brand-new car. I don't consider it reasonable that a brand-new car has suffered a major component failure which means the car can't be used just three weeks after it was supplied. A new battery will take four months to arrive, and I consider that this is an unreasonable amount of time, given that repairs have to be carried out within a reasonable time and without significant inconvenience.

I'm satisfied, having reviewed all the supporting information, that the car was of unsatisfactory quality at the time it was supplied to Ms P.

The outstanding issue for me to decide is how HFS should put things right.

HFS has refunded Ms P's deposit and all the rental payments she made under the agreement even though Ms P had some days of use of the car. At the time Ms P's complaint was being considered and the car couldn't be used, HFS provided her with a courtesy car. I appreciate Ms P said she only got a similar car after she complained and even the similar car didn't have a tow bar and she couldn't go abroad with it like she planned to. However, the fact is, Ms P was provided with the car which kept her mobile during the relevant period and she didn't have to pay for use of the car.

I think in terms of the direct loss from the agreement, HFS has put Ms P back in the position she'd be in had she not taken the agreement.

Ms P said she missed out on going on holiday with the car as planned. I can see that HFS asked her about proof of the booking and cancellation of the holiday so it could consider any losses, but I can't see that this was provided. Ms P seems to be referring to the loss of an expectation of a holiday she planned, instead of one she'd already booked. I can understand this as Ms P said one of the reasons she chose to acquire this car was to drive around Europe. However, I can't consider any hypothetical losses.

Ms P has mentioned the interest her deposit would have accrued, but this is a hypothetical situation, and I don't think it is fair to compensate for something that may or may not have happened. Ms P intended to acquire a car and I haven't seen anything to suggest she was deprived of the money she planned to put into a savings account. Had she not acquired this car, I think on balance it is likely she would have paid the amount towards another car instead of saving it so, I don't think HFS caused her a loss in that regard.

Ms P also complains about the length of time it has taken for HFS to respond to her complaint and to process the rejection. HFS responded to Ms P's complaint within eight weeks, Ms P raised her complaint on 26 April 2024 and HFS issued its final response on 20 June 2024. I appreciate Ms P says it should have been a quick rejection but the industry regulator, the Financial Conduct Authority (FCA) gives businesses like HFS up to eight weeks to investigate and respond to complaints. So, I can't say HFS did anything wrong with the length of time it took to respond to Ms P's complaint.

It isn't for the Financial Ombudsman Service to award compensation for trouble and upset that seeks to punish the business or put the consumer in a better position that they would otherwise have been in. It is not unusual for a consumer going through a complaint process with a business to suffer some form of trouble and upset in the process.

In relation to the cost of insurance and petrol in the car. Ms P was obliged to have the car insured, even though she hadn't taken ownership of the car as it was acquired under a finance agreement and belonged to HFS until the agreement was fully paid. I'm also mindful that HFS refunded Ms P all of her rental payments even though she had use of the car for some of the relevant period and a replacement car while the issues with her car was ongoing. In fact, Ms P confirmed she had use of a courtesy car until mid-July 2024. This means, not including the 18 days Ms P says she didn't have use of a car, she had use of a car for around three and a half months, without making a payment for it. In the circumstances, I think HFS' actions have been generous and put Ms P in a better position, so I don't think it is fair for HFS to refund the costs of insurance and petrol.

HFS have accepted to pay Ms P £200 acknowledging the trouble and upset caused with the disappointment of a faulty car and the loss of expectations. For the reasons given above, I think this is fair and reasonable and I won't be asking HFS to do anything further.

Putting things right

HFS should pay Ms P £200 in recognition of the trouble and upset caused as a result of the faulty car.

My final decision

For the reasons given above, I uphold Ms P's complaint in part and direct Honda Finance Europe Plc trading as Honda Financial Services to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 2 January 2025.

Oyetola Oduola
Ombudsman