

The complaint

Mr C complains about the quality of a used car he acquired through a hire purchase agreement with CA AUTO FINANCE UK LTD ('CA'). Mr C says the car he purchased had numerous problems over the short time he has owned it. The car displays an intermittent warning light that an airbag is not functioning correctly. This has not been rectified and he would like an alternative car, or to return the car.

What happened

Our Investigator thought the complaint should be upheld in part. Mr C disagreed with the Investigator's opinion. The complaint was then passed to me.

I issued my provisional decision saying that Mr C's complaint should be upheld. A copy of the background to the complaint and my provisional findings are below in italics and form part of this final decision.

What I said in my provisional decision:

Mr C's complaint is about the quality of a car he acquired in August 2023. The car was used, and it was first registered in August 2016. So, it was seven years old when Mr C received it. It had covered 82,875 miles.

Mr C acquired the car using a hire purchase agreement that also started August 2023. The vehicle had a retail price of £26,747. Mr C paid a £1,106.72 deposit meaning £25,640.28 was financed. This agreement was to be repaid through 60 monthly instalments, there were 59 monthly repayments of £578.58 and then a final instalment of £588.58. If Mr C made repayments in line with the credit agreement, he would need to repay a total of £35,831.52.

Mr C said he saw the car had an airbag warning light as soon as he acquired it, and he took the car back to the dealership to be repaired. He said that the dealership hasn't been able to fix this. And the car has also developed further faults with, amongst other things, the handbrake, the air conditioning, and some parts of the suspension.

Mr C complained to CA about the quality of the car. CA has considered this complaint, and it didn't uphold it. It said that the dealership was confident the faults with the car were repaired. The dealership has said that it didn't know of any ongoing issues with the car, and it didn't think that the car wasn't fit for purpose.

CA did offer to arrange an independent inspection of the vehicle and it also agreed to reduce the settlement value of his finance by £1,000 if Mr C wanted to exit the agreement. Mr C didn't agree with this and brought this complaint to the Financial Ombudsman Service.

Our Investigator initially didn't uphold Mr C's complaint as he thought the car had been repaired. Mr C didn't agree and provided some further evidence about the faults the car had.

Our Investigator then upheld the complaint. He now agreed that the vehicle wasn't of satisfactory quality but as the car had been repaired, at no cost to Mr C, he thought CA had done enough. He did note that Mr C had been able to drive the car a significant distance since he acquired it, around 14,000 miles, and so it would have experienced wear and tear over this time. He thought that Mr C

should be paid compensation of £250 for the times the car had needed a repair, and he wasn't provided with a courtesy car.

Mr C didn't agree with the Investigator. He said that the car developed a fault straight away with the airbag and this has not been repaired. It has now developed other faults. He thinks the compensation is not enough. He noted the car has needed to be looked at by the garage around once a month since he acquired it.

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

What I've provisionally 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 what is fair and reasonable, I need to have regard to the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider was good industry practice at the relevant time.

The agreement in this case is a regulated hire purchase – so we can consider a complaint relating to it. CA as the supplier of the goods under this type of agreement is responsible for a complaint about their quality.

The Consumer Rights Act 2015 ('CRA') is relevant to this complaint. It says that under a contract to supply goods, there is an implied term that 'the quality of the goods is satisfactory'.

To be considered 'satisfactory', the goods would need to meet the standard that a reasonable person would consider satisfactory – taking into account any description of the goods, the price and all the other relevant circumstances. So it seems likely that in a case involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage at the time of sale and the car's history.

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

This car was about seven years old when Mr C acquired it and it had travelled around 83,000 miles. I think a reasonable person would accept that such a vehicle would probably have some parts that are worn and would need replacing sooner or later – which is reflected in the lower price paid in comparison to a new vehicle.

But there's also a reasonable expectation that a vehicle will be relatively durable - taking into account its age, price and mileage at the outset. So even though the vehicle wasn't new Mr C should have been able to use it for a reasonable period before it needed significant work.

Both parties to the complaint have provided an outline of the faults with the car. I won't detail all of them here, as I don't need to in order to reach a decision. But below is a summary of the issues complained about by Mr C and the investigation and repair work carried out by the dealership. This has been collated from the car history provided by CA and the job sheets provided by Mr C (and the dealership) and all the parties to the complaints recollections of what has happened with the car:

- *Mr C noticed the car was showing an airbag warning light and the air conditioning was not functioning correctly when he acquired it in August 2023. The dealership 're-gassed' the air conditioning and removed the airbag fault code.*
- *Later in August 2023 the car was again showing an airbag warning light and the dealership undertook a repair to this.*
- *In November 2023 some 'ceramic coating' had faded which was reported as a fault to the dealership.*
- *In November 2023 Mr C informed the dealership that the airbag fault light was back on.*

- In December 2023 the airbag warning light was looked at again by the dealership. The job sheet for this repair said it had been on previously but stayed off for about a month.
- Still in December 2023 the airbag warning light was present again, and Mr C also reported a problem with the handbrake. These were looked at again by the dealership.
- In January 2024 the handbrake developed a further fault which was repaired by the dealership.
- In March 2024 airbag light was present again. The job sheet shows that that the airbag light was still present and some of the car's wiring was replaced.
- In May 2024 the airbag fault light was visible again.
- And in July 2024 the car's service light was reset.

Mr C also says that he has driven to the garage several times and the airbag warning light has been reset. And going forward I understand the airbag warning light is still intermittently showing.

I don't think it's in dispute that the car has had, and still has, several faults. The most long lasting of these seems to be an intermittent warning light about an airbag which was present when Mr C acquired the car. And it does seem that the air conditioning has also been a persistent problem.

The airbags are an important safety system, and they should have been working when Mr C took ownership. It's not entirely clear if it is the airbags themselves that are faulty or the warning lights about them, but either way I think this is a potentially significant safety fault and it's been established that it was present when Mr C acquired the car. And it seems reasonable to say that this fault has not been fully fixed. Given that this fault was present at the time of supply, and hasn't been rectified, despite the dealer's attempts to do this, I think it makes the car of unsatisfactory quality.

The remaining disagreement is about how this should be put right. CA has offered to reduce the amount Mr C owed if he wanted another car, our Investigator also thinks Mr C should receive some financial compensation, whereas Mr C would now like to reject the car. I think Mr C should now be able to reject the car and I'll explain why below.

As a starting point, Section 24 of the CRA says that:

'A consumer who has the right to a price reduction and the final right to reject may only exercise one (not both), and may only do so in one of these situations - after one repair or one replacement, the goods do not conform to the contract;'

The CRA doesn't say that there is one repair for each issue. It is one repair overall to make the car conform to the contract. I think the fault with the airbag system meant that the car didn't conform to the contract. As I've outlined above, there have been multiple attempts to rectify this, and I don't think these have been successful. There seems little prospect of this part of the car now being repaired. I think this gives Mr C a right to reject the car now.

I don't think it was unreasonable for Mr C to agree to have the car repaired several times as this is also an acceptable remedy where a car isn't of satisfactory quality. But Section 32 of the CRA says that:

'If the consumer requires the trader to repair or replace the goods, the trader must – (a) do so within a reasonable time and without significant inconvenience to the consumer'

Given that I'm not persuaded that the car has been properly repaired I don't think it would be reasonable to say that the repair was done within a reasonable time. Mr C should also receive some compensation for this.

As far as I can see, Mr C has had use of the car for the majority of the time he has owned it. But the presence of the airbag warning light, and the other problems with the car, have impaired his use of it. As Mr C has said this issue has led to his partner being uncomfortable driving the car as she thinks an important safety system may not be functioning correctly. Because of this I think refunding 5% of the amounts he has paid to the car finance, until it is settled is reasonable.

Mr C was inconvenienced on several occasions by having to take the car back and forth to the garage. I can also imagine it would have been very frustrating and stressful for the problems to keep re-occurring as they did. I understand Mr C has taken the car to be repaired over ten times (and maybe nearer 20), each for over two days, and he wasn't always provided with a courtesy car. So, I think the distress and inconvenience should be increased to £500.

Mr C has recently provided some evidence that the car has developed other faults recently. I haven't considered these as part of this complaint. This is because I don't need to consider these further faults to say that he should now be able to reject the car.

Developments

CA, and Mr C, received my provisional decision. CA didn't respond to it. Mr C agreed with what I had said.

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.

CA and Mr C didn't raise any new points after receiving my provisional decision. So, I've reached the same conclusions I reached before, for the same reasons. I still think the car Mr C was supplied with wasn't of satisfactory quality and that he should be paid compensation. As no party to the complaint has made any substantive comment about my provisional decision, I won't add anything to what I said earlier.

Putting things right

I uphold this complaint against CA and tell it to:

- End the finance agreement and collect the car at no further cost to Mr C.
- Refund any deposit or part exchange amount Mr C paid to the dealership.
- Refund 5% of the monthly payments made from the start of the finance agreement until it has been settled.
- Pay Mr C 8% simple yearly interest on all refunds calculated from date of payment to date of settlement.
- Pay Mr C £500 compensation for the inconvenience and distress this situation has caused him.

If CA considers that it's required by HM Revenue & Customs to withhold income tax from the interest part of my award, it should tell Mr C how much it's taken off. It should also give Mr C a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

For the reasons I've explained above, and in the provisional decision, I uphold Mr C's complaint.

CA AUTO FINANCE UK LTD should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 15 May 2025.

Andy Burlinson
Ombudsman