

## **The complaint**

Miss F complains that a car supplied to her by RCI Financial Services Limited ("RCI") through a hire purchase agreement was not of a satisfactory quality.

## **What happened**

Miss F was supplied with a new car through a hire purchase agreement with RCI in December 2020. The agreement was for £20,066.80 over 48 months, with monthly repayments of £288.39 followed by an optional final repayment of £9,167.57. Miss F also paid a deposit of £3,892.

Miss F has told us about repeated problems with the car, and that specifically it has so far had three replacement 12v batteries during its life. More recently, and after she brought the complaint to us, Miss F has told us about further problems that she thinks are linked to the electrical systems of the car, including the random activation of the emergency braking system. Miss F says that she now considers the car unsafe to drive and has commenced the voluntary termination of her hire purchase agreement.

RCI has looked into Miss F's complaint with assistance from a main dealer of the car's manufacturer. RCI initially told us that it thought the problems with the battery were due to Miss F's use of electrical accessories not approved by the manufacturer. It has later said that it thinks the battery problems might be due to Miss F's relatively low usage of the car. But in any case it says that on each occasion Miss F accepted the repairs that had been completed by the main dealer. So it didn't think that Miss F should be allowed to reject the car.

Miss F's complaint has been assessed by one of our investigators. She didn't think the car that had been supplied to Miss F had been of a satisfactory quality. And she thought that the evidence suggested that RCI had not successfully repaired the battery issues. So the investigator thought Miss F should be allowed to reject the car.

RCI 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. If Miss F accepts my decision it is legally binding on both parties.

## **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 F and by RCI. 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 F 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, RCI is responsible. What's satisfactory is determined by what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. Here I think it particularly relevant that Miss F was supplied a brand-new car, rather than a second hand car that might already be experiencing some wear and tear.

I am satisfied, based on the evidence I have seen from Miss F, that the problems with her car are more serious than RCI has implied in its responses. It seems that the main dealer has undertaken a number of diagnostic activities on the car to attempt to determine why its batteries have repeatedly, and prematurely, failed. I am not satisfied those activities have been successful in determining, or correcting, any underlying faults.

Section 24(5) of the CRA says that a consumer who has the right to reject may only exercise this if after one repair or replacement, the goods do not conform to contract. This is known as the single chance of repair. And this applies to all issues with the goods, and to all repairs – in other words it's not a single chance of repair for the dealership AND a single chance of repair for RCI – the first attempted repair is the single chance at repair.

It does seem that Miss F afforded more than a single chance of repair to the dealer. In fact the evidence shows that her battery has been replaced on three occasions – in August 2022, in June 2023, and in January 2024. But Miss F's car battery was noted to have prematurely lost some charge just a couple of months later. It was at that point that Miss F told RCI that she wished to exercise her right to reject the car. And I am satisfied that the other issues Miss F has told us about since that time, although not forming part of this complaint, do reasonably demonstrate that further repairs are likely to be needed to the car.

So I think it is reasonable for Miss F to conclude that she has reached the point at which it would be fair to allow her to reject the car. And I am minded that point was reached at the point Miss F made the request to reject the car to RCI in April 2024.

I have thought carefully about whether Miss F's use of the car has been impaired by the ongoing problems. RCI says that the car manufacturer was willing to offer Miss F a refund equal to two months repayments to reflect the time she spent waiting for the car to be examined by the dealer. And as I said earlier, Miss F now considers the car to be unsafe to drive, and that does also seem to have been something she says she has been told by the dealer on occasion in the past before repairs were attempted. So I am satisfied that Miss F has suffered some impairment of her use.

I intend to treat Miss F's rejection of the car as taking place in April 2024. But Miss F has had some use of the car since that date, so I don't think it fair for all the repayments she has made since then to be refunded. Instead I am going to direct RCI to refund 50% of the repayments Miss F has made to the agreement since it refused to allow her to reject the car in April 2024.

There is little doubt that the problems with the car have caused distress and inconvenience to Miss F. She has suffered several breakdowns, and more recently felt the car to be unsafe to drive. So I am also directing RCI to pay some further compensation to Miss F in this regard.

As I said earlier, Miss F told us last week that she was starting the process of voluntarily terminating her agreement. I am not sure what the current status of those actions are. So in the redress I am setting out below I am assuming that the agreement still remains in force, and the car remains in Miss F's possession. Should that not be the case RCI should amend the redress it pays to ensure that Miss F is returned to the same place she would have been had the agreement been in force and the actions below completed. That might mean actions such as the refunding of any end of agreement charges paid by Miss F (plus appropriate interest).

### **Putting things right**

The car that was supplied to Miss F was not of a satisfactory quality. I think it fair and reasonable that Miss F should be allowed to reject the car. So subject to the caveats noted above should the agreement have already been terminated by Miss F, RCI should;

- End the agreement with nothing further for Miss F to pay.
- Collect the car at no cost to Miss F
- Refund 50% of the repayments made by Miss F since her reasonable request to reject the car was refused in April 2024.
- Refund the deposit paid by Miss F on the car of £3,892.
- Add interest of 8% simple a year on any refunded amounts from the date they were paid (if they were) to the date of settlement. HM Revenue & Customs requires RCI to take off tax from this interest. RCI must give Miss F a certificate showing how much tax it's taken off if she asks for one.
- Pay Miss F £250 for the distress and inconvenience she has been caused.
- Remove any adverse information from Miss F's credit file in relation to this agreement.

### **My final decision**

My final decision is that I uphold Miss F's complaint and direct RCI Financial Services Limited to put things right as detailed above. Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or reject my decision before 25 November 2024.

Paul Reilly

**Ombudsman**