

The complaint

Mr C complains about a car acquired through a Hire Purchase agreement with Paragon Bank Plc ('Paragon'). Mr C complains he has had problems with the car and says the ultimate engine failure of the car stemmed from a problem that existed at the point of supply. He wanted to reject the car.

What happened

Mr C acquired the car on 8 April 2023. When it was supplied, it was seven years and seven months old, had covered 69,240 miles and cost £28,950.00.

The car broke down in November 2023 and a report showed multiple fault codes relating to the brake assistant control unit, engine control unit, exhaust and turbo – with a suspected EGR valve block or fault. At this point, just over seven months later, the car had covered 81,019 miles. This was just under 12,000 miles since supply.

An independent inspection was carried out early in January 2024, costing £276.00. A number of fault codes were retrieved and warning messages were displayed on the dashboard on start-up. The inspector said the engine wasn't running properly and there was a missing bolt from the camshaft, which they said was likely dislodged somewhere in the valve train assembly.

They said further investigation would be required after stripping the engine to locate the dislodged bolt and to help understand what might have happened. They couldn't find evidence of previous repairs to the valve train. And they felt given the amount of mileage covered since the point of supply the issue would not likely have been present or developing at that point.

But they said if on further inspection the bolt couldn't be found in the valve train assembly then this might indicate a manufacturing fault. The conclusion from this report was that ultimately a new engine was required.

Mr C complained in January 2024 about the irreparable engine failure. He provided a diagnostic report and repair estimates from an authorised service centre.

Paragon said based on the report, the fault wouldn't have been present or developing at the point of supply, and so it couldn't help further with the repairs. So Mr C referred the complaint to our service.

The investigator who considered the complaint said that the report indicated on balance that the fault wasn't something present or developing at the point of supply.

Mr C then provided a further report. This engine failure report, carried out in May 2024, included Mr C paying a deposit of £1,500.00 to start stripping the engine. This report concluded that the issues stemmed from the engine having been rebuilt using reclaimed crankshaft bearings. They said the oil feeds from the crankshaft were blocked by these old

bearings, leading to a domino effect of the engine overheating internally and causing the subsequent engine failure.

Paragon issued a further response to Mr C's complaint in July 2024. It said the pre-delivery inspection found no significant issues and this, along with the first report, shows faults weren't likely present or developing at the point of supply. They said Mr C's latest report didn't confirm when the previous poor repair would've been carried out.

The investigator felt the further report showed the fault stemmed from the engine having been previously rebuilt and that it was therefore present at the point of sale.

Paragon disagreed with the investigator's view. It contacted the engineer who conducted the first inspection. They thought it wouldn't have been possible to cover 12,000 miles with reclaimed bearings. So it was unlikely an issue at point of supply.

Paragon felt that any engine rebuild would likely not have taken place before Mr C obtained the vehicle. So it felt it was not a fault present at the point of supply.

Ultimately Paragon asked for the case to be reviewed by an ombudsman and so it has been passed to me to issue 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.

I'm required to take into account the relevant laws and regulations; regulators rules, guidance, and standards; codes of practice and, when appropriate, what I consider to have been good industry practice at the relevant time. I may not comment on every point that's been raised, but I have read and considered everything that's been said. Instead I will focus on what I think are the key points to reach a fair and reasonable decision. This reflects the nature of our service which was set up to be an informal alternative to the courts.

Where information or evidence is missing or contradictory, I'll make my decision based on the balance of probabilities – that means what I consider to have more likely than not happened – given the available information.

I will lay out what I consider to be the key facts and the considerations I've taken into account when reaching my decision.

Mr C acquired the car through a Hire Purchase agreement with Paragon. Under this type of arrangement, Paragon became the supplier of the car and is responsible if the goods aren't of satisfactory quality at the point of supply. The key legislation for me to consider in complaints of this nature is the Consumer Rights Act 2015 ('CRA'). This outlines, among other things, that goods should be of satisfactory quality at the time they're supplied.

Satisfactory quality is described as the standard that a reasonable person would expect taking into account, among other things, the description, age and price of the goods. The quality of the goods includes their state and condition - and where appropriate their fitness for purpose, appearance, freedom from minor defects, safety and durability should be taken into account.

Mr C acquired the car in April 2023. At the point of supply the car was seven years and seven months old, had covered 69,240 miles and cost £28,950.00.

As the car had some age to it and had covered a reasonable amount of mileage for its age, it would be reasonable to expect wear and tear items that would need to be attended to, potential faults that would need to be seen to and certain aspects of the car to not operate as smoothly as when it was first manufactured.

The longer from the point of supply and the more use a vehicle has had, the less likely it is that an issue experienced would have been present or developing at the point of supply. In this instance, Mr C covered just under 12,000 miles in roughly seven months, before the issues complained of. With that level of use, I would expect compelling evidence to show these issues were likely present or developing at the point of supply.

Over the lifetime of a car, faults are more likely to arise as time goes on. However in this instance the issue as diagnosed isn't the sort of wear and tear item or general fault that an owner would expect to have to attend to so soon.

There is evidence of substandard repairs, in the form of reclaimed bearings being used, from the second inspection. I have no reason to doubt the accuracy of this report. Though the report doesn't specify exactly when these repairs would have taken place.

Paragon and the original inspector have said the car couldn't have covered the mileage it had done if reclaimed bearings had been in place prior to supply. The implication being that these repairs would have taken place since supply, i.e. while the car was with Mr C.

Mr C has taken the report to mean that work previously done to the car has failed causing the damage – as had the investigator who first investigated the complaint.

If the car had experienced some kind of fault that required engine repairs, while Mr C had the car, I would expect that he would have first raised it with the supplier in the first instance. I think it's more likely on balance that he would have done this – as he eventually did when the car did fail.

Alternatively, if there were faults requiring repair and he had chosen not to contact the supplier, instead pursuing independent repairs, I would expect that if those repairs turned out to be ineffective then he would pursue a complaint against whoever carried out those repairs.

Either way these would have been less burdensome and time-consuming than the complaint he eventually pursued against Paragon. And I haven't seen any evidence of Mr C having done the repairs himself. The report isn't explicit about when the repairs were carried out, however a plain reading of the report implies that the repairs were historic. Ultimately, if the engine required repairs I think Mr C would have approached the supplier first. I don't think on balance Mr C carried out the repairs himself.

The pre-sale check has been provided to evidence that the car was all-clear at the point of supply. However I can't see anything that speaks to the issue at hand. The first inspection that was carried out would have been in much greater depth than the pre-sale check and this wasn't able to diagnose the issue and it recommended even further engine stripping in order to discover the nature of the problem. So it's highly unlikely that the issue complained of would have come to light during the pre-sale check in any event.

The first report was unable to diagnose the issue and its conclusions were based on having limited access to the components in question – and it specified that further analysis would have to be carried out once the engine was stripped down further.

Mr C arranged such an inspection and the conclusion from that inspection is that reclaimed parts used in previous repairs had prematurely failed.

This isn't the type of part that would normally degrade at the level of mileage that had been covered at the point of failure. This part had evidently failed previously requiring replacement. The fact this part had already failed at some point in the past, and had now failed a second time, would naturally raise broader questions about the function of the car and whether it was sufficiently durable from the point of supply.

It's unlikely that this component would have had to be replaced early on in its lifetime. So I think it's more likely this was replaced well into the previous period of ownership, prior to Mr C acquiring the car.

The original inspector said the car couldn't have covered 1,000 miles since supply with reclaimed bearings, let alone 12,000 miles. However this conclusion isn't supported by further evidence or given any additional justification.

This conclusion doesn't allow for the possibility that at any given time reclaimed parts could be 1,000 miles away from the end of their lifetime or 12,000 miles from the end of their lifetime. So I'm not persuaded by this point in isolation.

Even though the car was a number of years old, with corresponding mileage, it still cost just under £29,000.00. Whether the reclaimed parts had 1,000 miles or 12,000 miles left in them, I would have expected them to last much longer. The part in question wasn't sufficiently durable. I would not expect goods as expensive as these to require such comprehensive repairs as soon as they have here.

As such, I'm persuaded by the evidence that, on balance, the fault stemmed from reclaimed bearings that failed prematurely causing catastrophic engine failure, and that these repairs were carried out at some stage prior to Mr C acquiring the car.

On that basis, Paragon should cover the costs of the repairs carried out, which I understand Mr C has already paid for, and the cost of the initial inspection he paid for. He was unable to use the car from November 2023 until the car was repaired, so Paragon should refund Mr C's payments for that period.

Mr C has explained the impact this matter has had on him and I accept this would have caused a great deal of concern. I don't think the £250.00 suggested by the investigator is unreasonable in the circumstances.

My final decision

My final decision is that I uphold Mr C's complaint against Paragon Bank Plc.

It should now:

- Refund the cost of the repairs carried out
- Refund the cost of the first report carried out
- Refund Mr C's payments from November 2023 until the car was repaired
- Pay 8% simple interest on these refunds from the date of any payment to the date of settlement*
- Pay Mr C £250.00 to reflect the distress and inconvenience caused
- Remove any negative information reported to credit reference agencies up to the date of settlement

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 30 December 2024.

Scott Walker
Ombudsman