

The complaint

Ms H complains about a car she acquired using a hire purchase agreement with Marsh Finance & Commercial Limited ("Marsh Finance"). She says she had to pay to have it repaired and wants to be reimbursed for this.

What happened

Ms H entered into a hire purchase agreement with Marsh Finance in December 2022 for a car. The cash price of the car was £7,995 and Ms H paid a deposit of £489. The car's mileage at the point of supply was just under 50,000.

In around April 2023, the car started showing an error message on each occasion that Ms H started the car after it had been idle for a few hours. The error message said the engine oil pressure was low. Ms H paid £35 for a diagnostic check and the mechanic who inspected the car told her it needed an oil change. This was carried out and the car was then returned to Ms H, but she noticed the error message started to show again albeit less frequently than before.

Ms H then started to notice the car's engine was getting louder and says she was told by several mechanics that it was a loud fan. In October 2023, Ms H had become increasingly concerned about the noise and took the car to another garage. They told her that another oil change was needed, and Ms H paid £105 for this to be carried out.

Ms H noticed the noise hadn't gone away after the car had been returned to her. She took it back to the garage and says they told her that the car's wet belt was deteriorating and blocking up parts of the engine. Ms H says the mechanic told her this was a common mechanical issue with this make and model of car and numerous cars had been recalled as a result.

Ms H spoke to Marsh Finance to explore her options which included potentially settling her finance agreement. They told her that they'd raise a complaint for her given the short amount of time she'd had the car. However, they didn't uphold her complaint. They said there wasn't enough evidence that the faults with the car would have been present at the time it was supplied to Ms H, although they did offer to consider an independent engineer's report if she could provide one.

Ms H was then advised that the car's engine needed to be replaced. She paid £2,050 for this work to be carried out in November 2023.

Ms H referred her complaint to our service. One of our investigators looked into what happened but didn't recommend that it should be upheld. She felt the issues with the car were likely a result of general wear and tear. Ms H didn't agree and so her complaint has been passed to me 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.

Marsh Finance supplied the car to Ms H under a regulated hire purchase agreement. Because of that, our service can consider complaints about the agreement and the goods, in this case the car. As the supplier of the car, Marsh Finance has an obligation to ensure it was of satisfactory quality – as set out in the Consumer Rights Act 2015 (CRA). Satisfactory quality is what a 'reasonable person' would expect, considering amongst other things the age and price of the car.

Section 9 of the CRA refers to satisfactory quality and notes that the quality of goods includes their state and condition. It goes on to list the following aspects, amongst others, of the quality of goods: (a) fitness for all the purposes for which goods of that kind are usually supplied; (b) appearance and finish; (c) freedom from minor defects; (d) safety; (e) durability.

It's reasonable in my view to note the car wasn't new and had travelled around 50,000 miles at the time of supply. So, it wouldn't be reasonable to expect a used car like this to be in the same 'as new' showroom condition which it would have been when first supplied. But just because the car was used with mileage doesn't mean that Marsh Finance had no requirements in relation to satisfactory quality.

It's clear the car needed significant repairs in the form of a replacement engine, and I understand that this happened when the car had covered around 55,000 miles. I can understand why Ms H feels that it's entirely unreasonable for her to have paid a significant amount of money overall for the car to be inspected and repaired, when she'd only had it for a relatively short period of time. And I am really sorry to hear that this has had such a financial and emotional impact on her.

However, I don't have much evidence of what caused the car to become faulty or what those faults were. The documentary evidence I've seen shows what work was carried out on the car, but nothing about why this was needed. I appreciate that Ms H has said that several mechanics told her that this was an issue with the wet belt. But, for me to say that the car wasn't of satisfactory quality when it was supplied to Ms H, I would have needed some form of documentary evidence to show me what happened or what likely happened, even for me to reach a decision on a balance of probabilities. But I'm afraid I don't have that evidence.

So, while I know my decision will greatly disappoint Ms H, I'm not satisfied I have sufficient grounds to say the car was of unsatisfactory quality when it was supplied to her. This means I won't be upholding the complaint.

My final decision

For the reasons I've set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 12 November 2024.

Daniel Picken
Ombudsman