

The complaint

Mrs E complains about the quality of a car supplied to her under a hire purchase agreement with Lendable Ltd, trading as Autolend.

What happened

On 29 November 2022 Mrs E took out a hire purchase agreement with Autolend. This was for a used car, which was just over seven years old and had covered approximately 62,459 miles at the time. The cash price was £9,250, which included 12 months' warranty. Mrs E paid a deposit of £1,500. The rest was to be repaid over five years using the finance agreement.

Mrs E told us she collected the car around 1 December 2022. She said she soon realised there was an oil leak, and the car began having problems accelerating, so she took it to her local garage. She's provided evidence showing she had a full service carried out. Mrs E said this didn't fix the problem, so the garage advised her to book it in again.

Mrs E told us she didn't get a chance to follow that up because the car broke down soon after the service. She's provided a copy of the breakdown report dated 30 March 2023, which recorded the car's mileage to have been 65,231 at the time. It said: *"Gearbox cooler pipes leaking. Member was offered recovery but declined. Advised that the car requires immediate repair"*.

Mrs E said she took the car back to her local garage, who advised her there was a problem with the gearbox and rusty pipes. She said they couldn't fix it because they only work on manual gearboxes and this one was automatic. Mrs E said she took the car to two more garages and they both gave the same diagnosis.

Mrs E provided copies of several documents from the garage that repaired the car. None of them record the mileage the car had covered at the time. Mrs E showed us:

- Two versions of an invoice/report dated 2 May 2023. Both versions showed a total price of £5,760 (including VAT) for repairs to the gearbox and cooling pipes - one of them gave a breakdown of that costing.
- A document headed "advice note/invoice", also dated 2 May 2023. This listed the same work with a total price of £4,800, less £600, leaving a balance of £4,200 (including VAT) to pay.
- An undated document, printed on plain paper with the garage's name at the bottom. It said:

"Dismantled transmission & torque converter & found the following.

- 1. Metal contamination throughout transmission & torque converter*
- 2. Drive belt damaged*
- 3. Primary & secondary pulley damaged*
- 4. Low brake clutch burnt*

Cause of failure.

Oil cooler pipes leaking causing the transmission to run dry of oil. The only course of action is to completely rebuild the transmission & torque converter."

Mrs E told us she'd phoned the dealer about the problems with the car in March 2023, but they advised her to contact the credit broker. Mrs E said she felt she was being passed around between the dealer, warranty company, broker, and finance company, with no one wanting to bear the cost of the repairs.

Mrs E raised a complaint with Autolend on 22 June 2023. She told us no work had been done on the car at that point – the document the garage issued on 2 May 2023 was just an estimate. Mrs E said Autolend advised her she'd need to provide evidence proving the gearbox was faulty, and the garage said this would mean stripping it down. She said the garage advised her that, once they'd stripped the gearbox down, they'd need to replace it.

On 10 July 2023 Mrs E sent Autolend a copy of the garage's repair invoice and photos of various parts they'd stripped from the car. Autolend responded saying they'd need a report from an independent engineer, so Mrs E arranged for the car to be inspected on 7 September 2023.

The independent engineer's report said the car appeared to have had a replacement gearbox and transmission cooler pipes, and that a set of corroded pipes had been presented for inspection. The report didn't record the car's mileage the time. It concluded:

"The level of corrosion to the cooler pipes is extensive and is considered as penetrative corrosion and would have been developing for multiple thousands of miles and multiple years.

A leak from the transmission cooler pipes can result in a loss of transmission fluid levels which can result in consequential transmission damage, which appears to have happened in this case.

We believe the level of corrosion to the transmission cooler pipes would have been at the development stage at the point of purchase."

In their final response to Mrs E's complaint, Autolend said they were happy to refund £600 for the cost of the gearbox cooling pipes. But they said they wouldn't reimburse her for the repairs to the gearbox, because she'd already had that work done before she contacted them. Autolend said this had prevented them checking whether the gearbox had needed to be replaced, or whether there was a more cost-effective solution.

Dissatisfied with this response, Mrs E referred her complaint to our service. After looking into what had happened, our investigator said she didn't think the car had been of satisfactory quality when it was supplied to Mrs E. To put things right, she thought Autolend should reimburse Mrs E £99 for the cost of the independent report and £5,760 to cover the cost of the repairs to the car, deducting the amount they'd already paid her.

The investigator thought Autolend should refund the monthly payments Mrs E had made while she hadn't been able to use the car, plus a further £250 for the distress and inconvenience caused. And she said Autolend should remove any adverse information that's been recorded on Mrs E's credit file about the agreement.

Autolend disagreed with our investigator's view - they asked for an ombudsman to review the case. I'll summarise the main points they made:

- Nothing in the service invoice Mrs E provided raised concerns - the checks completed were normal serviceable items.
- If the cooling pipe leaked on 30 March 2023, why did Mrs E continue to drive without

informing Autolend or the broker? The credit agreement clearly states she's to contact them as soon as any defect is found.

- Mrs E hadn't provided any evidence showing she'd contacted the dealer. The first Autolend heard of any fault was in June 2023, after six months of ownership.
- Autolend hadn't been allowed any opportunity to inspect the car, investigate the nature and extent of the problem, or choose the most cost-effective way of putting things right. The cost of a new gearbox should've been under £2,000, but Mrs E paid £3,200. The repair cost was more than 62% of the car's purchase price.
- Expecting lenders to pay out for repairs completed without their knowledge is unfair, unreasonable, and not in line with the Consumer Rights Act 2015. Would they be expected to take responsibility if the repairs fail?
- It would've been reasonable for Mrs E to repair the car if Autolend had told her she was liable for those costs when in fact she wasn't – or if they'd taken an unreasonable amount of time to investigate. But they'd advised her they'd repair the car if she provided evidence that the fault was present or developing when it was supplied to her.
- The independent engineer was arranged in July 2023 by a claims management company Mrs E had authorised to act on her behalf. She hadn't arranged this herself.

The case was referred to me for a final decision. After reviewing the evidence both parties had provided, I asked for more information from Mrs E and the garage that carried out the repairs to help me understand what had happened since the car broke down on 30 March 2023.

The repairer said they couldn't remember exactly when the work had been carried out. They confirmed their final bill was £4,800 including VAT, but they said they'd agreed Mrs E could take the car once she'd paid £4,200 of it. They said this would've been after she'd made a payment of £3,000 on 7 November 2023.

Mrs E said the car was at the garage for several months. She said she couldn't remember the exact date she'd collected it, but it was just before she'd taken it for an MOT test.

My provisional decision

After reviewing all the available evidence and arguments, I issued a provisional decision saying:

The agreement between Autolend and Mrs E was for hire purchase, so I can consider a complaint about it. Under a hire purchase agreement Autolend is the supplier of the car, so they're responsible for a complaint about its quality.

The Consumer Rights Act 2015 is relevant to this complaint. It says every contract to supply goods is treated as if it promises the customer the quality of those goods will be satisfactory. The standard that's applied is whether a reasonable person would consider the quality of the goods to be satisfactory, taking into account the way they were described, the price and all the other relevant circumstances.

I bear in mind this car was just over seven years old and had covered approximately 62,459 miles when it was supplied to Mrs E, and that it cost £9,250. I don't think a buyer would expect a car of that age and mileage to be in perfect condition. But I think they'd expect to be able to drive it for a reasonable amount of time without having to pay out for major repairs.

I've considered the repairs Mrs E has had carried out on this car.

1. Gearbox cooling pipes

The breakdown report confirms the gearbox cooler pipes were leaking on 30 March 2023. Although they appear to have been replaced before the independent engineer's inspection on 7 September 2023, I see no reason to doubt the pipes he was shown had come from this car.

The engineer's report confirmed there was extensive penetrative corrosion which would've been developing over a long period of time. Bearing in mind how soon this problem came to light, I'm satisfied it was most likely to have been present or developing when Mrs E got the car.

I consider this to have been a significant fault, because the independent engineer's report said loss of fluid from the cooler pipes can result in damage to the gearbox. For that reason, I'm satisfied the car wasn't of satisfactory quality when it was supplied to Mrs E.

I'm pleased to see Autolend have already offered Mrs E £600 to cover the cost of the replacement pipes.

2. Gearbox

The document from the repairer said the gearbox had been damaged because the leaking cooling pipes caused it to run dry of oil. I bear in mind that the repairer can't be said to be independent in this matter, and that this information has been typed on a blank document, with no letterhead or date it was produced.

As the independent engineer's report confirms this appeared to be what happened, I'm prepared to accept the gearbox had to be repaired due to damage caused by the leaking pipes allowing it to run dry.

Autolend feel strongly that it wouldn't be fair for me to direct them to pay for these repairs. The point for me to decide is whether I think Mrs E acted reasonably after she discovered there was a problem with the car. And based on the evidence I've seen so far, I'm not persuaded that she did. I'll explain why.

Mrs E said she noticed the car was leaking oil soon after she got it. I appreciate she'd be unlikely to know whether it was a serious issue, but I'd expect her to get it checked. I've seen no supporting evidence showing she raised this with the dealer.

I've seen a hand-written receipt showing the car went to a local garage for servicing, and a photo of an entry in the service booklet. I've seen nothing to show whether that garage was asked to investigate the oil leak. And I think there's almost certainly an error in the information that's been recorded, because the entry in the service booklet is dated 23 January 2023 and the handwritten receipt is dated 23 March 2023. So I don't find this information helpful.

I consider the breakdown report dated 30 March 2023 to be more reliable, because I think the mechanic was most likely to have been looking at the dashboard when he recorded the car's mileage as having been 65,231. The report said Mrs E was warned the car needed to be repaired immediately, so I'd expect her to stop driving it until it was fixed.

I appreciate it may take a while to find a suitable garage, get quotes and book in a date for the work to be completed. I've seen no supporting evidence showing where the car was between the breakdown on 30 March 2023 and 2 May 2023, when the garage gave Mrs E a quote for repairing the pipes and gearbox.

Based on the evidence I've seen, I think it's most likely that the car was at the repairer's premises from 2 May 2023 until 7 November 2023. Online MOT records show the car was MOT tested the following day, at which time it had covered 65,684 miles. So, the car had travelled just over 450 miles since it broke down on 30 March 2023.

For that reason, I think it's very likely that the gearbox was damaged because Mrs E carried on using the car after she'd been warned to get it repaired immediately. In those circumstances, it wouldn't be fair for me to direct Autolend to cover the cost of repairing the damage.

Putting things right

I'm satisfied Autolend should reimburse Mrs E £600 for the cost of the replacement cooling pipes, if they haven't done so already. I've seen evidence showing Mrs E paid this on 2 May 2023, so I think Autolend should also pay interest on the amount reimbursed with effect from that date.

I think being supplied with a car with severely corroded gearbox cooling pipes caused some distress and inconvenience for Mrs E. I've seen evidence showing she had to call her breakdown service and take the car in to get the pipes replaced. I think Autolend should pay her £100 compensation for that.

But for the reasons I've explained, in the absence of supporting evidence showing Mrs E took prompt action to get that problem put right after she'd been warned about it, I won't be directing Autolend to do anything more.

For the reasons I've explained, I intend to uphold this complaint and direct Lendable Ltd, trading as Autolend, to:

- *Reimburse Mrs E £600 for the cost of the replacement gearbox cooling pipes, if they haven't done so already.*
- *Add interest to the amount to be reimbursed, calculated from 2 May 2023 until the date of settlement at 8% simple per year.*
- *Pay Mrs E £100 for distress and inconvenience she's been caused.*

If Autolend decide tax should be deducted from the interest element of the award, they should tell Mrs E how much they've taken off. They should also give her a tax deduction certificate if she asks for one.

I invited both parties to send me any further information or comments they'd like me to consider.

Responses to my provisional decision

Mrs E asked me to look at her case again. She said she'd phoned her broker several times during March 2023 about the oil leak, but they hadn't responded until two months later. Mrs E attached another copy of their letter dated 31 May 2023, in which the broker advised her she'd need to prove the fault would've existed at the point of sale.

Mrs E said she'd taken the car to her local garage on 23 January 2023 for a full service because she wasn't sure what was wrong with it. She said she took it back to the same garage for another full service on 23 March 2023 because it still wasn't working well.

Mrs E said she wouldn't have been able to make any connection between the oil leak and gearbox because she's not a mechanic. She said she didn't start phoning the dealer at that point because she'd assumed they must've done a full service before selling the car to her.

Autolend didn't agree that the case should be upheld. They said they'd already offered to refund Mrs E £600, but she hadn't accepted it or provided her bank details to allow them to make payment. Autolend said they're required to verify all bank details for fraud and anti-money laundering purposes. They said they'd made every effort to refund Mrs E, so it wouldn't be fair to penalise them with interest charges.

Autolend said they could've declined to reimburse Mrs E because she'd overpaid, but they wanted to do the right thing for her. They attached a screenshot of a google search saying a repair can cost anywhere from £80 to £500, depending on what parts of the cooling system need to be replaced. They said they'd agreed to cover the full repair as it would've been the root cause of any additional failures.

Autolend said they didn't think the complaint should be upheld where the only change in outcome was an award of £100 for distress and inconvenience caused. They said they felt this was incredibly harsh, considering the repairs had been carried out before they were informed of any problem.

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 grateful to both parties for taking the time to respond to my provisional decision. But after giving careful consideration to the points they've raised, I'm not persuaded that I should change my mind.

I appreciate Autolend feel they did enough to resolve Mrs E's complaint by offering to reimburse her £600 for the cooling pipe repair. I think it would be helpful for me to clarify why I think they should do a bit more to put things right.

In their final response to Mrs E, Autolend said they were upholding her complaint. I agree that was the right thing to do. I think the complaint should be upheld, because I'm satisfied the car wasn't of satisfactory quality when it was supplied to Mrs E.

When thinking about how to put things right, I stress that I have no desire to penalise Autolend – that's not part of my role. My aim is to put Mrs E back to the position she should've been in if the car had been of satisfactory quality when it was supplied to her - to the extent that I think it's fair and reasonable for me to do so.

I've given careful thought to whether it's fair to direct Autolend to reimburse Mrs E for the cooling pipes, given there's limited supporting evidence to show whether she'd given the dealer or broker an opportunity to put this right for her.

As a starting point, I've considered what I think would've happened if Mrs E had complained to Autolend before that repair was carried out. I bear in mind Mrs E lives more than 200 miles from the supplying dealer – and her breakdown service had advised her this repair was urgent. In those circumstances I think it's most likely Autolend would've asked her to get one or two quotes from local garages.

I don't consider a general google search on the likely cost of repairs to vehicle cooling systems to be persuasive evidence as to what this particular repair should've cost. The

evidence I've seen shows the replacement cooling pipes for Mrs E's car cost £600.

Having thought about all of this, I don't think Autolend would've reached a significantly different outcome if Mrs E had complained to them before the cooling pipes were replaced. So, I don't think it's unfair for me to direct Autolend to reimburse her for this work.

I've seen evidence showing Mrs E paid £600 to the garage on 2 May 2023. I'm satisfied she's been out of pocket by that amount because the car wasn't of satisfactory quality. In those circumstances, I think it's fair for Autolend to add interest to the amount to be reimbursed.

Autolend said they weren't able to reimburse Mrs E sooner because she didn't accept their offer of £600 and didn't give them her bank details. But as the finance agreement was still active, I think they could've credited her account.

Autolend feel it's unfair for me to direct them to pay Mrs E £100 compensation because she'd had the car repaired before they were aware of a problem. I'll explain why I don't think that's relevant here.

If the car had been of satisfactory quality when it was supplied to Mrs E, she wouldn't have had to call her breakdown service out and arrange for the cooling pipes to be repaired. I think it was inevitable this fault would cause distress and inconvenience for her – regardless of when she complained to Autolend.

I appreciate Mrs E will be disappointed that I won't be directing Autolend to cover the cost of the gearbox repair. But I've seen no new evidence to explain where the car was between the breakdown on 30 March 2023 and 2 May 2023, when the garage provided a quote for repairs. So, I remain of the view that the gearbox was most likely to have been damaged because Mrs E carried on using the car after she'd been warned it needed an immediate repair.

My final decision

For the reasons I've explained, I uphold this complaint and direct Lendable Ltd, trading as Autolend, to:

- Reimburse Mrs E £600 for the cost of the replacement gearbox cooling pipes, if they haven't done so already.
- Add interest to the amount to be reimbursed, calculated from 2 May 2023 until the date of settlement at 8% simple per year.
- Pay Mrs E £100 for distress and inconvenience she's been caused.

If Autolend decide tax should be deducted from the interest element of the award, they should tell Mrs E how much they've taken off. They should also give her a tax deduction certificate if she asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs E to accept or reject my decision before 20 November 2024.

Corinne Brown
Ombudsman