

The complaint

Mrs A complains about the quality of a car she financed with CA AUTO FINANCE UK LTD ('CF').

What happened

The parties are familiar with the background details of this complaint – so I will briefly summarise them here. It reflects my role resolving disputes with minimum formality.

In August 2023 Mrs A took out a PCP agreement with CF for a car. However, Mrs A says soon after she took delivery of the car she noticed issues with it, including a large oil leak coming from the engine / gearbox.

Mrs A says she contacted CF and the dealer arranged repairs but these took several months to complete. And when the car finally come back it was still not fixed.

Mrs A wants to return the car and receive compensation for what has happened.

The case came to our service. Our investigator said Mrs A could fairly return the car and receive compensation – including full reimbursement for rental car costs incurred while the car was in for repairs.

CF did not agree – and said that it didn't believe it should pay rental car costs when this was agreed between Mrs A and the dealer.

The matter has come to me for 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.

While I might not comment on everything (only what I consider key) this is not meant as a discourtesy to either party – it reflects my role resolving disputes with minimum formality.

I consider some of the issues I am dealing with here relate to a period after the final response CF issued to Mrs A's initial complaint in December 2023 – but they directly relate to the subject matter of the original complaint concerning the quality of the car so I consider it fair to look at these here. And I note that CF has not objected to this in any event.

I note that Mrs A is being represented in this case – so references to her will be taken to include submissions made on her behalf by her representative.

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 to have been good industry practice at the relevant time.

The agreement in this case is a regulated consumer credit agreement. As such, this service is able to consider complaints relating to it. CF is also the supplier of the goods under this type of agreement, and responsible for a complaint about their quality.

The Consumer Rights Act 2015 is of particular relevance 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”.

The Consumer Rights Act 2015 says the quality of goods are satisfactory if they 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 vehicle’s history.

The Consumer Rights Act 2015 (‘CRA from now on’) says the 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.

CF supplied Mrs A with a second-hand car that was around 4.5 years old and had done around 39,700 miles at the point of supply. It is fair to say that in these circumstances a reasonable person would consider that the car had already suffered wear and tear – and was likely to require more maintenance and repairs than you might see on a newer, less road worn model. However, I note the cash price of the car was £26,500 which is a significant amount of money. Furthermore, the car was not very old or very high mileage. In the circumstances I think there is a reasonably high expectation of quality – particularly in the early stages of use.

Here it doesn’t appear to be in dispute that the car had notable issues early on. And while CF does not appear to accept that some of the issues (like the wheel welds, or bodywork problems) are faults or more than expected wear and tear, it does appear to accept that the oil leak was unacceptable and needed to be addressed. I agree with this – I can see that an independent inspection from November 2023 concluded there was a ‘large oil leak’ which was potentially originating from the engine or transmission. This appears to have been identified in the first month or so of Mrs A having the car (and without Mrs A having covered excessive mileage in it). Considering the age, price and short use period (and lack of any suggestion by the expert that Mrs A was at fault) I don’t think a reasonable person would agree this is satisfactory. So I think the car was of unsatisfactory quality in the circumstances under the CRA.

I think CF agrees with this as it organised a repair for Mrs A. Which wasn’t unfair in the circumstances. However, a repair needs to be carried out without significant inconvenience to the customer. And it also needs to fix the issue. Here, the evidence indicates neither of this criteria being met. I note that Mrs A’s testimony and circumstantial evidence points to the repairs taking a while to be arranged and then several months. Furthermore, there is a credible independent inspection from July 2024 confirming that the original oil leak while not as bad ‘is still present and therefore the repair has failed’ despite what appear to have been attempts to repair the transmission. And while I acknowledge the repairing garage has suggested the leak in the report is a new leak and unrelated to its repairs, the independent expert confirmed that ‘the repair has failed leaving an oil leak in the same area’. I note it was the same engineer who carried out the first inspection – so this seems credible in showing the issue is likely the same/linked and remains unresolved.

And while I note the repairing garage has pointed out the reference to 'engine oil' rather than transmission fluid in the report, said report does refer to this appearing at the 'join of the engine/transmission' and 'contamination'. So I don't consider mentioning 'engine oil' is conclusive in showing it's a brand new issue unrelated to the gearbox (also noting the original report pointed out that it was unclear if the fluid was coming from the engine or gearbox anyway).

While there is not complete certainty here as to the success of the repairs, I only need to decide what is most likely. And I consider it more likely than not that the original repairs were not successful. Therefore, Mrs A is now able to reject the car in accordance with her rights under the CRA. I think CF doesn't object to this either as it broadly agreed to our investigator's conclusions on the matter. So I don't consider it necessary to go over this in further detail here. The main issue appears to be with the proposed redress, specifically relating to hire car costs. I will come on to this but I will also briefly cover the other aspects of putting things right first.

Mrs A should be able to hand the car back and not be liable for monthly rentals from the point she no longer has it. The agreement should be ended with no adverse footprint on her credit file. Mrs A should also get her deposit back.

I understand that Mrs A did not pay for independent inspection reports so CF will not have to refund for these. And I don't see any evidence of out of pocket repair costs related to inherent faults here either.

I can see that Mrs A has been able to use the car and appears to be still doing so – so my starting point is that CF will retain rentals paid up to the point of settlement. However, Mrs A has also been without the car while it was in for repairs. This appears to have been for an extended period between 15 March to 20 June 2024 (this is corroborated by the hire car invoice Mrs A has produced for this period). So Mrs A should get a refund of monthly rentals for this period.

It also appears that Mrs A has suffered notable distress and inconvenience due to the issues with the car – which have gone on over a considerable period of time and have meant that she has had the inconvenience of having to source a hire car herself to stay mobile while the car was in for repairs. And worry about the ongoing issue. I think that CF could have accepted rejection of the car sooner than it has done and the impact of the issue has taken a lot of extra effort for Mrs A to sort out. Our investigator had proposed an award for distress and inconvenience of £350 which I think is fair here.

Mrs A has also said she had extensive hire car costs while the repairs took place of £5465.04 so is still out of pocket even if monthly rentals for this period are refunded. I know that CF argues that it didn't offer to cover hire car costs for Mrs A (the dealer offered to cover 50%) but I think that isn't really relevant here. The underlying point is that Mrs A shouldn't be out of pocket because of the breach of contract by CF in respect of the car quality. It wasn't unreasonable for her to want to be kept mobile during a period the car was in for repairs – and if this has cost her more than her monthly rentals – then this should fairly be taken into account.

I note that it is accepted Mrs A has already received a £250 contribution from the dealer toward her hire car costs. So CF would not be fairly liable for that amount. Furthermore, CF would not be liable for hire car costs in respect of the amount it is already going to be refunding in respect of the monthly rentals from 15 March to 20 June 2024 – as Mrs A would always have had to pay for a car in that period.

Furthermore, Mrs A is also reasonably expected to mitigate her losses. I have already written to the parties to explain that I consider the hire car costs excessive compared to similar deals I have seen for similar cars which have considerably lower monthly rental costs than Mrs A paid. As a result of this I proposed that CF should only be fairly liable for 50% of these costs (once the other deductions have been taken into account for other refunds).

Mrs A has made the point that my comparisons were not based on a like-for like automatic car (as per the car she hired from CF originally). So I recalculated these. And based on that I still maintain Mrs A's rental costs are excessive and she could have fairly got a lower deal but I accept that an automatic car would be more money to hire than the previous comparator I obtained. As a result I said that Mrs A should get 70% of the hire costs (after deductions) which is closer to what appears to be a reasonable rental for a similar automatic car.

Mrs A has made points about it being a last minute rental and the time of year being high demand. But my comparison was based on similar conditions. Furthermore, Mrs A indicates she couldn't have shopped around as the dealer only offered to contribute to costs from a particular rental place ('X'). But I don't think that is right. Its email said 'if you hire through a company such as X'. So I think she could have fairly shopped around. Overall, I think that Mrs A could have done more to mitigate the costs incurred so it wouldn't be fair for CF to meet these in full.

Putting things right

As set out below.

My final decision

I uphold this complaint and direct CA AUTO FINANCE UK LTD to:

- Take back the car without charging for collection;
- end the finance agreement with no liability for monthly rentals relating to the point after collection (refunding any overpayment if applicable);
- refund the deposit of £5,450;
- refund rentals relating to the period from 15 March to 20 June 2024;
- refund 70% of the hire car costs outstanding after first deducting the following amounts:
 - £250 (representing the amount paid to Mrs A by the dealer already)
 - the rentals being refunded by CF (as specified above)
- pay simple 8% yearly interest on all refunds from date of payment to the date of settlement;
- pay Mrs A £350 for the distress and inconvenience caused; and
- ensure no adverse information relating to the agreement is on Mrs A's credit file.

If CF is required to deduct tax from my interest award it should provide Mrs A with a certificate of tax deduction on request.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision before 10 July 2025.

Mark Lancod
Ombudsman