

The complaint

Mr C complains that the car he acquired through Lendable Ltd, trading as Autolend, wasn't of satisfactory quality. He wants Lendable to allow him to reject the car, release him from his credit agreement, and reimburse him for his costs.

What happened

Mr C entered into a hire purchase agreement in August 2023 to acquire a used car. The cash price of the car was £6,787, and the total repayable was £10,613.68, and was to be repaid through the credit agreement which was set up over a 55-month term with monthly payments of £182.49. At the time of acquisition, the car had already been driven nearly 75,000 miles and was nearly ten years old.

Mr C told us:

- A few weeks after acquiring the car, he had it checked and inspected, and multiple faults were identified;
- he contacted the broker and dealer to tell them about this, and although he initially wanted to reject the car, he didn't see why he should have to be inconvenienced with sourcing another car, so he agreed that the car should be repaired;
- he agreed to the repairs being undertaken subject to all the identified faults being addressed, with an independent diagnostic being undertaken upon completion;
- the dealership contacted him in December 2023 to report that all the remedial works had been completed, but there's been no diagnostics undertaken, and he's not satisfied that all the faults have been addressed;
- he told the dealership he would not collect the car, and he has no faith in the vehicle;
- the situation with the car has affected his health, and his employment – he's had to pay for train fares, before purchasing a cheap "*runaround*" car with the associated additional costs such as temporary car insurance;

Lendable rejected this complaint. It said when Mr C first complained about the faults with the car, the dealer and broker agreed to accept liability for the issues he'd raised, and agreed to the appropriate repairs at no cost to Mr C. But Lendable said that all repairs had been completed, and there was simply no evidence that there'd been any failed repairs, or that there were any further faults with the car that could be deemed to have been present or developing at the point of supply.

It asked Mr C to arrange an independent inspection, and it provided details of three recognised industry experts in this field. Lendable said if an independent report said that the repairs had not been completed satisfactorily, or that it found evidence of further faults or issues that indicated the car had not been of satisfactory quality when supplied, it would refund Mr C the cost of that report and it would accept rejection of the car. And it asked Mr C to collect the car.

Our investigator looked at this complaint and initially said he thought it should be upheld. He'd seen evidence in the form of Mr C's testimony and the garage notes from the initial evaluation that confirmed there were issues and faults with the car – so it wasn't of

satisfactory quality when it was supplied. And he noted that all parties accepted this to be the case. And in the absence of new evidence confirming the relevant repairs had been undertaken successfully, he thought Mr C's complaint should succeed.

Lendable disagreed and submitted some new evidence. Because Mr C wasn't willing to arrange an independent inspection of the car, Lendable arranged for one to take place in October 2024. And on the basis of that inspection, it said Mr C's complaint should not be upheld.

Our investigator reviewed the additional information and was satisfied that the repairs had been completed to a satisfactory standard and no new faults had been identified. Because of this, he said he no longer thought that this complaint should be upheld.

Mr C disagrees so the complaint comes 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.

Having done so, I agree with our investigator – I don't think this complaint should be upheld – and I'll explain why.

I hope that Mr C won't take it as a discourtesy that I've condensed his complaint in the way that I have. Ours is an *informal* dispute resolution service, and I've concentrated on what I consider to be the crux of this complaint. Our rules allow me to do that. Mr C should note, however, that although I may not address each individual point that he's raised, I have given careful consideration to all of his submissions before arriving at my decision.

When looking at this complaint I need to have regard to the relevant laws and regulations, but I am not bound by them when I consider what is fair and reasonable.

As the hire purchase agreement entered into by Mr C is a regulated consumer credit agreement this Service is able to consider complaints relating to it. Lendable is also the supplier of the goods under this type of agreement, and it is responsible for a complaint about their quality.

Under the Consumer Rights Act 2015 ("CRA") there is an implied term that when goods are supplied "the quality of the goods is satisfactory". The relevant law says that the quality of the goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, price and all other relevant circumstances.

The relevant law also says that 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 the goods. So, what I need to consider in this case is whether the car *supplied* to Mr C was of satisfactory quality or not.

The CRA also says that, where a fault is identified within the first six months, it's assumed the fault was present when the car was supplied, unless Lendable can show otherwise. But, if the fault is identified after the first six months, then it's for Mr C to show the fault was present when he first acquired the car. So, if I thought the car was faulty when Mr C took possession of it, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask Lendable to put this right.

I don't think there's any dispute that Mr C has experienced problems with the car. That has been well evidenced by both his testimony and the information he's sent us, along with the findings of the garage that he first consulted. But I understand that the supplying dealership accepted liability at the outset, and all parties agreed that 'repair' was the way forward.

It's the situation following these repairs where the parties appear to disagree, so that's the focus of this decision.

Mr C says he has no confidence that the repairs have been completed to the required standard; there's been no evidence provided to him that all the repairs have been undertaken; and he has concerns that there's other faults with the car.

Lendable disagrees. It says that it has undertakings from the dealership that repairs have been undertaken in full. And it detailed Mr C's concerns raised in October 2023 together with the action and work undertaken to address these concerns. The details were as follows:

Concerns

- Suspected oil leak from the rear main seal;
- Both front top mounts have excessive play;
- The nearside front drop link has excessive play;
- The front brake discs are excessively worn;
- The engine runs rough and misfires.

Repairs

- The oil leak has been fixed;
- The Crankshaft was not leaking, it was the oil cooler, which has been replaced;
- The suspension mounts did not require replacement;
- The drop links were the cause of the noise - these have been replaced;
- The brake discs have been replaced;
- The brake pads have been replaced;
- The engine and timing chain have been inspected and road-tested; no misfires or concerns noted.

Because the parties disagree, I have to look very carefully at the evidence I do have and decide what I conclude to be the most persuasive argument – what do I think, on balance, best reflects the current situation.

I'm pleased to see that Lendable sought to break the deadlock and it appointed a recognised third party to carry out an independent inspection of Mr C's car, a party that is a recognised and trusted expert in this arena.

From reading its report, it's clear that it was provided with an accurate background that clearly set out the issues.

In the background to their report, the engineer said that *"The vehicle went back to the dealer some 10 months ago for repairs. the dealer has said they carried out all the necessary repairs on the vehicle and the customer then refused to collect the vehicle. We need to know if the repairs the dealer is claiming to have done... have been done"*. So, I'm satisfied that the instructions given to the engineer were objective.

The engineer then reports on the inspection undertaken:

“Both the front suspension leg top mountings have been replaced by the vendor, which was confirmed at the time of inspection”.

“...under bonnet fluid levels were checked and found to be correct, at this point the vehicle was started with no permanent warning lights displayed on the driver’s information panel, with the vehicle starting readily from cold, with no evidence of excessive smoke from exhaust, and static gear selection was normal”.

“Checks in and around the engine bay revealed no evidence of coolant leakage and only the expected levels of oil seepage in line with the vehicle’s age and mileage”.

“All ignition lights illuminated and extinguished correctly”.

“Throughout the road test the vehicle engine transmission performed as expected for a used vehicle of this age and mileage, with no evidence of excessive smoke from exhaust, no issues with the braking performance and no issues with the level of power assistance from the steering and no evidence of overheating”.

“During the inspection we could not identify any unusual suspension noise, i.e. the suspension noise was elevated in comparison to a new vehicle but was acceptable for a used vehicle that was approaching 80,000 miles”.

“No fault codes were present after the road test”.

“Final checks revealed no evidence of coolant leaks in and around the engine bay, or evidence of major oil leakage around the engine bay and or on the underside of the vehicle”.

Taking everything into account, I’m satisfied that the faults and concerns highlighted by Mr C are no longer present – they’ve either been repaired, and confirmed as such, or they’re simply no longer present or couldn’t be replicated.

The report concludes:

- *“...we could not replicate the vehicle owner’s concerns reference excessive noise coming from the suspension, however we can confirm that the vehicle has already undergone remedial repairs to the top mountings, which appear to have been done to a satisfactory industry standard”.*
- *“The vehicle was structurally sound with no evidence of major accident repairs or significant corrosion”.*
- *“The vehicle’s handling and performance and running gear i.e. transmission was considered to be commensurate with the vehicle’s age and recorded mileage”.*
- *“...it is our considered opinion the vehicle was sold in an acceptable/satisfactory condition for a used vehicle of this age and mileage; the vehicle owner should also be made aware that as the vehicle’s mileage increases the maintenance costs will increase pro rata therefore the vehicle owner should budget for this on an ongoing basis”.*

So, on the basis that there were faults present at the point of supply, and that Mr C chose to have these repaired, I’m satisfied that Lendable, through the actions of the supplying dealership, has done what it needed to do in the circumstances. And although the inspection took place some time after the repairs had been undertaken, the report makes no cautionary

statements about the conclusions reached, or that a different conclusion may have been reached had the inspection been undertaken sooner.

The instruction of an independent inspection is what's required and expected in these circumstances. And in the absence of any other persuasive evidence to the contrary, I'm not persuaded that Lendable hasn't fulfilled its obligations.

Finally, Mr C complains about a number of other things including, for example, some ULEZ charges that he says he's received when the car was not in his possession. But these things are not aspects that I can consider here, our Service simply does not deal with ULEX charges. In this situation, Mr C needs to raise a complaint about these charges with the dealership who he believes is responsible for them. And in the event that he's unhappy with its response, Mr C can escalate the matter to the appropriate body.

I know Mr C will be disappointed with this decision, but I hope he understands why I've reached the conclusions that I have.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 1 April 2025.

Andrew Macnamara
Ombudsman