

The complaint

Mr J complains that the car he acquired financed through a hire purchase agreement with Marsh Finance Limited wasn't of satisfactory quality.

What happened

In August 2022 Mr J acquired a car financed through a hire purchase agreement with Marsh. In or around March 2024 he raised a complaint with Marsh that the car wasn't of satisfactory quality. He said the car was in an abhorrent state.

In its final response Marsh said that given the passage of time since he acquired the car it was necessary for Mr J to prove the vehicle was unfit for purpose. It said it had no evidence that the faults he was reporting existed at the point of sale. It invited Mr J to provide an independent engineer's report and suggested some suppliers. Mr J wasn't satisfied and brought his complaint to this service.

Mr J said he had recently received a quote for £721.70 for repairs, on top of already spending nearly £2,000. He said some of the problems with the car were raised on previous MOTs. He said the car appears to have had several 'ghost' MOTs as shown on the MOT check website. He said there were multiple advisories for tyres among other things on previous MOTs but none of these issues were present on the MOT the car passed just before he acquired the car. But, Mr J said, when he took the car for its MOT the initial advisories were present again, and the car failed.

Our investigator concluded that Marsh hadn't treated Mr J unfairly. Mr J didn't agree and asked for a decision from an ombudsman.

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 realise this will come as a disappointment to Mr J but having done so I won't be asking Marsh to do anything further for the reasons I've outlined below.

In considering what is fair and reasonable I need to have regard to the relevant law and regulations, regulator's rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time. Mr J's hire purchase agreement is a regulated consumer agreement and as such this service can consider complaints relating to it.

Satisfactory Quality

Marsh, as the supplier of the car, was responsible for ensuring that it was of satisfactory quality when it was supplied to Mr J. Whether or not it was of satisfactory quality at that time will depend on several factors, including the age and mileage of the car and the price that was paid for it. The car that was supplied to Mr J was about nine years old, had been driven

approximately 59,000 miles and had a price of £12,735.35. Satisfactory quality also covers durability which means that the components within the car must be durable and last a reasonable amount of time – but exactly how long that time is will depend on several factors.

If I am to decide the car wasn't of satisfactory quality, I must be persuaded faults were present at the point of supply. Faults that developed afterwards are not relevant. Moreover, even if the faults reported were present at the point of supply this will not necessarily mean the car wasn't of satisfactory quality. This is because a second-hand car might be expected to have faults, for example tyres may be damaged from wear and tear but this will not necessarily mean the car is not of satisfactory quality.

Mr J complained to Marsh in or around March 2024 as the final response letter to him is dated 9 April. It asked Mr J to provide an independent inspection to see if any faults were present at the point of supply. I've seen a copy of an invoice dated 26 April 2024 for work done. The repairs involved:

- *Full engine timing chain and guide replacement with sump pan removed to retrieve broken chain guides.*
- *Carry out engine oil and filter service.*
- *Recover vehicle from home address.*
- *Replace engine vacuum pump.*

By this time the car's total mileage was 62,485, Mr J had had the car for 19 months and had himself driven 3,827 miles. So it seems Mr J had the car for a while and was able to drive it. And at this point it would be reasonable for there to be necessary wear and tear repairs to the car. One would expect the timing chain to be replaced at some point subject to conditions and maintenance service history. There were further comments on the invoice including:

- *Advise customer unknown how long the engine oil pickup was blocked which can obviously starve the engine of oil pressure and cause issues later.*

So it's not clear when the problems started developing or if the problems weren't as a result of wear and tear. I note too that the car passed the MOT in September 2022 but did not have another test until 20 months later in May 2024 and I don't know if the car was serviced during this time.

I do understand that Mr J is unhappy that the car has had to have repair work done, but in the absence of independent evidence that the car had faults present or developing at the point of sale and not as a result of wear and tear it wouldn't be fair of me to conclude that the car wasn't of satisfactory quality when supplied.

MOTs

Mr J has questioned the validity of the previous MOTs for the car. It's not my role to determine whether an MOT is valid or not, and without evidence of wrongdoing it's reasonable to rely upon MOT records accessible through the Government's own website. Mr J took his car for the MOT in May 2024 which was after Marsh sent him its final response letter. If Mr J believes the car has been mis-sold to him based on an invalid or 'ghost' MOT history, then he can bring this specific complaint point to Marsh so that it has the opportunity to investigate further.

Mr J has said he is on the verge of taking legal action. We are an informal resolution service and I understand Mr J will be very disappointed with my conclusions. Nothing in this decision prevents him from pursuing the complaint through the courts, although of course this would come with other costs and risks.

Mr J has also indicated he may be in some financial difficulty. I'm sorry to hear this. By this decision Marsh will be aware of this and I would encourage Mr J to make contact with Marsh to discuss next steps. Businesses have a responsibility to respond sympathetically and positively to customers where they are aware of financial difficulty.

My final decision

My final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 24 February 2025.

Maxine Sutton
Ombudsman