

## The complaint

Mr B complains about a car supplied on hire purchase by CA AUTO FINANCE UK LTD ('CAA').

## 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.

Mr B says the car had issues with it from an early stage and now he wants to reject it.

CAA says the issues are due to reasonable wear and tear, and will not accept the car back. But it made an offer of £100 compensation for the problems Mr B had to date.

Our investigator concluded the car was of unsatisfactory quality when supplied – but as repairs had been carried out CAA's offer of £100 was a fair way to put things right.

Mr B disagrees and wants to reject the car. He has asked for an ombudsman to look at things again for a final decision.

I issued a provisional decision that said:

*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 note that as part of Mr B's complaint he has mentioned that CAA did not tell him when he took out the finance agreement for the car that he couldn't take it outside the UK. Looking at the terms of the agreement it is very clear it is forbidden to take the car out of the UK without permission. So I don't see how this was likely misrepresented. It is of course possible that Mr B was given some misleading information at the point the agreement was brokered (which CAA would be liable for) – but this is not something I consider necessary to go into here because I am directing rejection of the car and ending the agreement. And I don't see how any remedy for misrepresentation would leave Mr B better off in any event.*

*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. CAA 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.*

*On 22 May 2023 CAA supplied Mr B with a second-hand car that was around 4 years old and had done 43,216 miles at the point of supply. The dealer priced it at around £17,000 which is less than what a new or newer model with less mileage would cost. It is fair to say that in these circumstances a reasonable person would consider that the car had already suffered some wear and tear – and was likely to require more maintenance and potentially costly repairs sooner than you might see on a newer, less road worn model.*

*However, with that said, this is not a very old or very high mileage car. And at £17,000 a reasonable person would be expecting a certain level of quality from a second-hand car. I am not persuaded the car met that reasonable expectation when it was supplied to Mr B. Nor am I persuaded that those initial issues have been satisfactorily remedied. I will explain.*

*Firstly, I don’t think the bodywork issues Mr B has complained about likely render the car of unsatisfactory quality at the point of sale. The CRA says issues which are specifically drawn to a consumer’s attention, or reasonably discoverable at the point of sale will not make goods of unsatisfactory quality. And from what I can tell the issues with the bodywork, including bumper, wing mirror and rust would be reasonably discoverable from a pre-sale inspection of the car. Furthermore, and in any event it would be unreasonable to expect unblemished bodywork on a four year old car with this mileage. So prima facie I don’t think that CAA is liable for the bodywork issues present when the car was sold to Mr B.*

*Furthermore, I note Mr B has mentioned that when the car went in for repairs it was damaged further in the dealer’s possession (presumably while it was being stored in the dealership car park). However, I think this is not something I can fairly hold CAA liable for – it is too remote and more of a civil matter between Mr B and the dealership.*

*With the bodywork issues aside I have turned to the other problems with the car. From what I can see from job sheets, Mr B had started to identify these issues within the first few weeks after supply of the car. And after it having done very few miles while in Mr B’s possession.*

*I think at this stage it is worth noting that a job sheet from 9 June 2023 says that the mileage of the car is 44,300. However, looking at the mileage recorded on later job sheets (which reverts back to lower mileages) I am satisfied this appears to be a mistake by the technician and likely should have read 43,300. This would also make more sense – in light of the fact the delivery mileage was about 43,200 and Mr B had not had the car very long before it was checked for issues.*

*I can see the job sheet from 9 June 2023 showing Mr B reported issues with:*

- Noise
- Tyre pressure light illumination

- *Bluetooth connection issue*

*The Bluetooth issue appears to have been because of the need for a software update which was then carried out by the dealer. I think it is arguable that this is not a fault – but a maintenance issue. Because it is quite normal for software to require periodic updates to the latest firmware. So I don't think this matter clearly makes the car of unsatisfactory quality.*

*However, the noise issues and pressure light illumination appear to be more concerning. Particularly when taken with the history that followed the initial diagnostic on 9 June 2023.*

*Noise issues*

*My starting point is that I would not be expecting significant and unpleasant noises in respect of handling/steering/braking on a car of this age and mileage almost immediately after taking delivery of it and with a low mileage covered. But I think this is what occurred here.*

*I note that the initial technicians diagnostic is hand-written (and not completely clear as a result) but it appears to confirm a 'rumble' coming from the car. It says this is related to the brakes and as a result both the front and rear brake pads and discs are changed.*

*While brakes and discs are something that are reasonably expected to wear I wouldn't necessarily expect a car like this to almost immediately need these all replaced. So this indicates the car was not of satisfactory quality when supplied. However, it is evident from Mr B's testimony and later job sheets that the noise from the car continued even after these were changed – indicative of a different underlying cause to the one the technician initially diagnosed.*

*I can see that a job sheet from 27 July 2023 says that Mr B reports the car suffers from a 'groaning' noise when steering and parking. But the technician says 'no noise issue found'. There is then yet another job sheet from 29 August 2023 which mentions the noise being reported by Mr B 'mainly when reversing'. But the technician says that no fault was found in respect of this.*

*It is evident that despite the lack of consistent recreation of the noise by the dealership Mr B has been adamant that there is a handling noise from the car which isn't normal. At some points he appears to think it was engine related but there isn't evidence to support that from what I can see. However, I am satisfied that there has been a persistent noise, not just because of the early recognition of this – but also because of Mr B's compelling testimony and because the noise appears to have been recognised in a later independent expert report and re-diagnosed.*

*Said independent expert report ('Report A') was carried out on the car in February 2024. In this the expert says that when Mr B pulled forward and backward three times there:*

*'..was an intermittent noise, when on a hard lock it sounds like dry bushes rubbing, from the rear it sounds like a dry creaking noise'*

*It appears this is the same noise which Mr B has been complaining about from an early stage as it fits in with the terms 'groaning' and 'rumble' previously recorded on job sheets. I note the expert suspects this is down to worn suspension components (bushes). And while I acknowledge that this could be a wear and tear item on a second-hand car, I note:*

- *Report A is still not conclusive on the cause of the noise; and*
- *said Report A does not address the fact that Mr B complained of noise within 30 days of taking the car (and after having travelled less than 100 miles in it) which*

*an engineer appears to have recreated (albeit concluding it was a 'rumble' from the brakes). Or how that factors in regarding the reasonable expectations for a car of this price, age and mileage.*

*In summary, Mr B has complained of noise problems with the handling of the car from a very early stage. Whether these are described as a 'rumble' a 'groaning' or a 'creaking' they do not sound acceptable for a £17,000 car less than 5 years old. So I consider that this noise means the car as supplied was not of satisfactory quality. And CAA is liable for this as the supplier.*

*tyre pressure light issues*

*Even if I were mistaken in concluding the noise issues make the car not of satisfactory quality I note that is not the only ongoing issue here.*

*Mr B has maintained that the tyre pressure sensor light keeps illuminating and has done from an early stage. I can see the job sheets confirm this is the case. At one stage a faulty valve is identified on a tyre and repaired but in the main no issues are found with the tyres and the pressure is topped up and the light is reset multiple times. Only to apparently come on again. From what I can see the technicians reports do not always attribute it to the same tyre (for example the report on 27 June 2023 refers to the alert being for the O/S/F and the report on 29 August 2023 says it is for the O/S/R).*

*There doesn't appear to be a credible explanation for why this is happening so frequently particularly in such a short time following supply and with an overall low mileage covered by Mr B. I am not an expert but it seems it could credibly be linked to the wider issues with suspension or an underlying issue with the detection system itself.*

*I note Mr B has sent a picture of his dashboard showing the tyre pressure warning light illuminated as of February 2024 by way of illustrating that it is an ongoing problem. Furthermore, I note Report A does not really go into this issue or explain what the likely cause is and why it is acceptable in a car of this price, age and mileage.*

*In summary, I am satisfied this issue with the tyre pressure warning system is ongoing and was likely inherent when the car was supplied. And that it renders the car not of satisfactory quality in the circumstances.*

*Because I consider the car as supplied is not of satisfactory quality for reasons related to the noise and/or tyre pressure system I move on to consider a fair way to put things right.*

*Remedy*

*I note there has already been more than one attempt at diagnosing and repairing the issues with the noise and tyre pressure warning system. But I am not satisfied these have succeeded. Therefore, in line with the remedies in the CRA Mr B can now fairly exercise his final right to reject the car.*

*CAA should collect the car at no cost to Mr B. CAA should end the finance agreement with Mr B not being liable for future monthly rentals. It should also refund him his £99 deposit.*

*Mr B has been using the car – so should pay for that. However, it appears Mr B was not using the car for periods it was being looked at for diagnostics and attempted repairs. Mr B has referred to getting a courtesy car during repairs – so my starting point is he won't get rentals refunded for these periods.*

*However, it appears after the repairs in August 2023 Mr B left the car at the dealer as he didn't want it anymore. Mr B said he had a courtesy car until 15 September 2023 but after that it appears he had no use of the financed vehicle until he collected it on 24 January 2024. It is arguable Mr B could have collected the car as it was drivable. However, as I have concluded Mr B had a right to reject the car. So, in the circumstances I don't think it fair for Mr B to pay for the rental period from 15 September 2023 to 24 January 2024 and CAA should work out how much this is and refund it to Mr B.*

*I note the car left the dealer in January 2024 with 44,483 miles on the clock and the most recent MOT shows that Mr B is still using it. So I think Mr B should pay for any rentals post his collection up to the point of settlement. However, Mr B's use of the car overall has been impaired by the ongoing issues he has had with noise and warning lights. I don't think there has been any significant impairment here because the car was essentially drivable. But I think CAA making a 5% refund of all rentals paid (other than those I am directing CAA to refund in full) is fair to reflect this.*

*Mr B does not appear to have paid for any of the diagnostics or repairs to address the noise or pressure warning light issues. However, if he provides credible information to show he was billed for any (including proof he incurred the costs) then I am likely to award these.*

*I note CAA has offered Mr B £100 for distress and inconvenience. I have thought about if this is fair. I note that Mr B says his holiday plans abroad were impacted by the issue. But the agreement forbids him from taking the goods outside of the UK without permission and there is no evidence showing he was given permission or would have been. So I don't think it is fair to award for that. However, I think the issue has caused Mr B aggravation going in and out for repairs and being inconvenienced generally over an extended period of time. I have thought about the type of awards that would be fair in this situation as detailed on our website. After doing so I think that CAA in not taking the car back earlier has caused Mr B more than the usual annoyance you would expect in everyday life, and caused frustration and inconvenience over an extended period of time. Overall, I think that an award of £300 is fair and reasonable here.*

### **My provisional decision**

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

- *Collect the car at no cost to Mr B;*
- *end the finance agreement with no further monthly rentals due;*
- *refund Mr B's deposit of £99;*
- *ensure there is no adverse information in respect of the finance agreement on Mr B's credit file;*
- *refund Mr B the rentals covering the period from 15<sup>th</sup> September 2023 to 24<sup>th</sup> January 2024;*
- *refund Mr B 5% of all other monthly rental payments made;*
- *and pay 8% simple yearly interest on all refunds calculated from the date of payment to the date of settlement; and*
- *pay Mr B £300 compensation.*

*If CAA considers it must deduct tax from my interest award it should provide Mr B with a certificate of tax deduction.*

CAA did not respond.

Mr B says, in summary that:

- He is disappointed with the 5% refund for the time the car has been in his normal possession and generally with the compensation offered;
- he has laid out for a private inspection, tyre balance and expert report and submits the receipts for reimbursement; and
- he made a one off payment of £1,600 to the agreement and would like this back.

I wrote out to the parties with a modification to my proposed provisional redress. Neither party responded to this. CAA did ask for more time to make submissions. I extended the deadline for responses for it to do so – but it has since asked for an additional deadline.

### **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 know CAA has requested a further deadline extension but I consider it has fairly had sufficient time to provide its response. I am therefore moving ahead with my final decision.

Neither party has given me cause to change my provisional findings – which I still consider fair for the reasons already given (above). These findings now form my final decision alongside the points below:

It is important to note that Mr B has referred to increasing compensation in respect of the actions of this service but that isn't something for me to consider in my role as ombudsman here as it relates to our service provision.

I have considered Mr B's request to increase compensation for impaired use in respect of the actions of CAA in supplying the car. However, after thinking about this I am satisfied the amounts proposed in my provisional decision are fair and reasonable for the reasons given.

Mr B has provided proof that he paid for the following diagnostics/repairs which to me appear reasonably connected to the noise and/or pressure warning lights so I consider it fair to reimburse these plus out of pocket interest:

- £276 for the expert report
- £20 for wheel balancing

However, Mr B has provided an invoice for £42 to fix a 'small oil leak' from the rear of the engine. I think this seems to be an unrelated cost and something Mr B should fairly pay for as part of the running costs of his ongoing use of the car.

I also note that Mr B refers to making a partial settlement of £1,600 to the finance in October 2024 and has sent us a letter from CAA to confirm this. If Mr B accepts my decision and there is a credit balance on the account at the time of settlement of my direction (as a result of the £1,600 lump sum payment) then I agree CAA should refund said credit balance plus interest from the date of said credit balance to the date of settlement. However, it is worth noting that as part of the settlement CAA will be entitled to offset any of this £1,600 lump sum payment against any missed monthly payments due prior to the settlement as my redress is fairly based on Mr B having paid all the rental payments he was required to date.

### **Putting things right**

CAA should put things right as I have directed below.

## **My final decision**

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

- Collect the car at no cost to Mr B;
- end the finance agreement with no further monthly rentals due;
- refund Mr B's deposit of £99;
- ensure there is no adverse information in respect of the finance agreement on Mr B's credit file;
- refund Mr B the rentals covering the period from 15<sup>th</sup> September 2023 to 24<sup>th</sup> January 2024;
- refund Mr B 5% of all other monthly rental payments made;
- refund £276 for the expert report and £20 for wheel balancing;
- refund any credit balance left on the account as a result of this settlement (in accordance with my direction above);
- and pay 8% simple yearly interest on all refunds calculated from the date of payment to the date of settlement; and
- pay Mr B £300 compensation.

If CAA considers it must deduct tax from my interest award it should provide Mr B with a certificate of tax deduction.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 30 December 2024.

Mark Lancod  
**Ombudsman**