

The complaint

Mr W complains that a car that was supplied to him under a hire purchase agreement with Marsh Finance Limited wasn't of satisfactory quality.

What happened

A used car was supplied to Mr W under a hire purchase agreement with Marsh Finance that he electronically signed in May 2024. The price of the car was £12,000, Mr W made an advance payment of £1,154 and he agreed to make 39 monthly payments of £362.60 and a final payment of £372.60 to Marsh Finance.

Mr W had some issues with the car so he complained to Marsh Finance. It upheld his complaint in September 2024 and said that the dealer had accepted responsibility for the reported faults and had agreed to arrange the necessary repairs. It also said that it understood that the repairs had been completed to Mr W's satisfaction and that he was satisfied with the actions taken to resolve his complaint. Mr W wasn't satisfied with Marsh Finance's response and complained to this service later that day.

Mr W's complaint was looked at by one of this service's investigators who, having considered everything, said that it appeared to have been agreed that the car wasn't of satisfactory quality when supplied and Mr W had shown that the dealer's repairs had failed so Mr W was entitled to reject the car. He recommended that Marsh Finance should collect the car, end the agreement with nothing further to pay, remove any adverse credit data reported and refund the £1,154 deposit, with interest.

Mr W has accepted the investigator's recommendation but Marsh Finance hasn't done so and has asked for this complaint to be considered by an ombudsman. It has provided the dealer's job cards for the repairs and says, in summary and amongst other things, that: Mr W has taken the car back to the dealer since the investigator's recommendation and the job card confirms that the fault found by a third party garage was in relation to an exhaust bracket and not the rear differential that Mr W had claimed; and the complaint should be rejected as there's no evidence to suggest any previous repairs that the dealer had completed have failed and the dealer has resolved the issues with the exhaust bracket.

Mr W says that the car was with the dealer for more than a month but, when he collected it in January 2025, the issue was still there but even worse and the car keeps struggling to start.

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.

Marsh Finance, as the supplier of the car, was responsible for ensuring that it was of satisfactory quality when it was supplied to Mr W. Whether or not it was of satisfactory quality at that time will depend on a number of factors, including the age and mileage of the car and the price that was paid for it. The car that was supplied to Mr W was more than nine years old, had been driven for 77,715 miles and had a price of £12,000. 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 a number of factors.

The car was supplied to Mr W in May 2024 and he's described the issues that he's had with it and which he says started within a few days. He complained to Marsh Finance about the issues with the car and it upheld his complaint and said that the dealer had completed the necessary repairs.

A visual health check was performed on the car by a garage in September 2024 and it said: *"Suspected clutch and flywheel worn. Also transfer box is noisy. Would recommend clutch pack and gearbox. Further investigation would be required as other damage could have occurred due to gearbox fault (rear differential)"*. The car has been returned to the dealer and it said that the issue was an exhaust bracket which it resolved, and not an issue with the differential. The dealer's job cards and a timeline of events have been provided by Marsh Finance which the dealer says demonstrates that the reported issues were independent of each other and no failed repairs have occurred. Mr W says that when he collected the car in January 2025, the issue was still there but even worse and the car keeps struggling to start.

In complaints such as this one, where the evidence is incomplete, inconclusive or contradictory, I have to make my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances. Marsh Finance accepted that there were issues with the car and arranged for them to be rectified but there continue to be issues with the car. Having considered the evidence that's been provided by Marsh Finance and Mr W, I consider it to be more likely than not that there were issues with the car when it was supplied to Mr W, those issues caused the car not to have been of satisfactory quality at that time, the car has been repaired but there continue to be issues with it. In these circumstances, I find that it would be fair and reasonable for Marsh Finance to allow Mr W to reject the car and to take the actions described below.

Putting things right

I find that it would be fair and reasonable for Marsh Finance to end the hire purchase agreement and arrange for the car to be collected from Mr W, both at no cost to him. Mr W made an advance payment of £1,154 for the car. I find that it would also be fair and reasonable for Marsh Finance to refund that advance payment to Mr W and to pay interest on that amount. If Marsh Finance has reported any adverse information about Mr W's hire purchase agreement to the credit reference agencies, I find that it would be fair and reasonable for it to ensure that that information is removed from Mr W's credit file.

Mr W has been able to use the car and I consider that Marsh Finance can keep the monthly payments that he's made under the hire purchase agreement as payment for the use that he's had from the car.

My final decision

My decision is that I uphold Mr W's complaint and I order Marsh Finance Limited to:

1. End the hire purchase agreement and arrange for the car to be collected from Mr W – both at no cost to him.
2. Refund to Mr W the advance payment that he made for the car.
3. Pay interest on that amount at an annual rate of 8% simple from the date of payment to the date of settlement.
4. Ensure that any adverse information about the hire purchase agreement that it's reported to the credit reference agencies is removed from Mr W's credit file.

HM Revenue & Customs requires Marsh Finance to deduct tax from the interest payment referred to above. Marsh Finance must give Mr W a certificate showing how much tax it's deducted if he asks it for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 15 April 2025.

Jarrold Hastings
Ombudsman