

## The complaint

Mr K complains that the car he acquired financed through a hire purchase agreement with CA AUTO FINANCE UK LTD, trading as CA Auto Finance UK ("CAAF"), wasn't of satisfactory quality.

## What happened

In October 2023 Mr K acquired a car financed through a hire purchase agreement with CAAF. The car was seven years old and had 94,100 miles on the clock.

Mr K said he noticed an oil leak in November 2023 and took the vehicle back to the dealer. The dealer couldn't locate a leak but did repair a misfire issue. Mr K then took the car to a different garage which confirmed there was an oil leak from the rocker cover. It noted in its report the vehicle had been remapped and had an exhaust modification.

Between November and January Mr K experienced further issues with the car. He said it was looked at by two garages, including a manufacturers garage. He said he also asked them to run a full diagnostic on the vehicle to see when it had been remapped. The car was diagnosed with several issues which he said the warranty company wouldn't fix. Mr K said on 27 January the car was recovered back to his house. Mr K wanted to reject the car so brought a complaint to CAAF.

In its final response CAAF didn't uphold Mr K's complaint. It said there was no evidence to suggest the vehicle was faulty at the point of supply. Mr K didn't agree and brought his complaint to this service.

Our investigator concluded there was likely a fault with the car and that on the balance of probabilities the car wasn't of satisfactory quality when it was supplied. He recommended that CAAF should refund the cost of repairs already completed and investigate and fix the ongoing issues. Our investigator also concluded that there was no explicit evidence provided that the modifications and remapping were performed post-sale.

CAAF didn't agree and asked for a decision from an ombudsman. It inspected the car and provided further evidence and testimony.

I issued a provisional decision on 10 December 2024. I said:

*Mr K's agreement is a regulated consumer credit agreement, and our service can consider complaints against it. CAAF, as the supplier of the car, was responsible for ensuring that it was of satisfactory quality when it was supplied to Mr K, but it wouldn't be responsible for any wear and tear items that develop over time that might reasonably be expected on a used car. Whether 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 K was seven years old and had covered approximately 94,100 miles. So it would be reasonable to expect some wear and tear in its mechanical components.*

*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 also depend on several factors. I'm satisfied from the evidence provided there is currently something wrong with the car. Besides Mr K's testimony that he's had issues, there are several mechanical reports identifying issues and the car is currently off the road.*

### Vehicle faults

*Mr K initially reported an oil leak. He said the day after he acquired the vehicle he took it to a garage, Garage B, for a wheel alignment and a leak was noticed by the mechanic. I've seen a copy of a video where the mechanic shows the leak. I can see he points out where he believes the oil leak is and wipes his finger along to show the oil.*

*I've also seen a copy of the pre-sale vehicle check from Garage A, through the dealer, dated 13 October 2023. It says no issues were found with the car. The inspection had included a ramp check. The car passed the MOT on the day of sale. After Mr K expressed his concern to the dealer the car was checked again. I've seen a copy of an invoice dated 10 November from Garage A. It says there was a visual check for an oil leak, a smoke test and the car was left running for a few hours, and no oil leaks were found.*

*Where the evidence is unclear or conflicts, as it does here, I'll look at what's available and the surrounding circumstances – to decide what I think is most likely to have happened.*

*Mr K said he took the vehicle to his local garage, Garage C, and said he was advised the "near side rocker cover had a leak". Although I've not seen a diagnostic report.*

*Mr K said he went to pick up the car, but the engine management light (EML) came on and the vehicle went into limp mode. He said he had the vehicle plugged in for another diagnostic at Garage C. He said faults were detected and he provided an image of the codes – "faults "non OEM calibrations detected. Random misfire detected, cylinder 1 misfire detected, cylinder 5 misfire detected cylinder 3 misfire detected and persistent misfire catalyst damage."*

*Mr K said on 14 November he contacted the dealer again and the car was recovered back to Garage A. I've seen a copy of this invoice dated 17 November:*

- *"check EML and limp mode:*
  - *P167F-00 Non OEM Calibration detected,*
  - *P1315-00 Persistent misfire – catalyst damage*
  - *cylinder one, three, five misfire*
- *diagnostic report*
  - *the vehicle has been remapped*
  - *remap was not on vehicle on time of pre-health check*
- *visually checked vehicle on-ramp – no leaks*
  - *catalyst converters have been tampered and have poor weld (the dealer notified)*
  - *no screws found under the bonnet as customer has complained work carried out*
- *spark plugs replaced*
- *inspected and tested coil packs"*

*I note that on this second inspection there is no leak detected.*

*It is clear however that at this point there were problems with the vehicle, as noted above, related to persistent misfire which Garage A addressed. Mr K confirmed to this service that as of 18 November the car felt faster, and the engine management light was off.*

*Garage A noted that the vehicle had been remapped and the catalytic converters had been tampered with/removed since the sale of the vehicle.*

*Mr K said that on 23 November he was unable to drive the car, with the handbrake seized. He said the warranty company recovered the car to Garage C. Garage C diagnosed rear left calliper seized and park brake actuator seized. Mr K said he ordered and paid for the parts to be replaced by Garage C as the warranty company refused to cover them. He said Garage C advised there was still an oil leak.*

*Mr K arranged for the vehicle to be checked by a manufacturer's garage, Garage D on 20 December. It reported the following:*

- *“carry out complimentary visual health check*
- *carry out complimentary video*
- *check for oil leak - found leaks from nearside rocker cover and from dynamic response pump*
- *low coolant and overheating – check heaters*
- *pressure checked system found no external leaks, suspect either head gasket failure or possible cracked cylinder head. Also found non genuine software loaded into the vehicle*
- *advised vehicle not to be driven”*

*Mr K took the vehicle to another garage, Garage E on 10 January and 27 January. By this time Mr K had driven the vehicle approximately 1,000 miles. Garage E invoiced for the following:*

- *“Labour to fit customer supplied rocker cover*
- *supplied seals gaskets and antifreeze*
- *Labour to fit customer supplied fuel injectors to bank 2*
- *in our opinion we would advise against driving vehicle due to cracked aligners on cylinders seven and eight*
- *EML illuminated and misfire due to ongoing issues as stated on Garage D vehicle report”*

*I'm satisfied the vehicle has engine faults, including an oil leak, but it doesn't necessarily follow that they were all present or developing at the point of sale.*

#### *Vehicle modification*

*Garage A has said the vehicle was remapped and the exhaust modified after sale. Mr K denies this. In an email to CAAF on 29 December Mr K said:*

*“I have not remapped the car the remap was done when they taken the car back for repair when it was misfiring...”*

*I haven't seen any evidence the car was modified by Garage A when it was seen in November. I also think it unlikely the garage would undertake such modifications*

*unless requested to do so by the customer. It wouldn't have a reason to modify it just before sale or after. In addition the dealer would likely be aware this car was acquired with finance through a hire purchase agreement. Evidence of the modification wasn't apparent in the pre-sale health check which included the MOT pass.*

*CAAF said*

*"There was no work carried out by Garage A other than a visual check and an engine smoke test on 10 November 2023. After no leaks were found and the vehicle wasn't smoking the customer then took back possession of the vehicle. On 14 November the customer contacted us directly and stated that the vehicle was in limp mode, the EML was illuminated, and the car was misfiring. None of these issues were mentioned previously."*

*The dealer has said the car passed its MOT on the day of sale and "it's impossible to pass an emissions test if the vehicle was de-catted". According to Government guidance (available online) on modifying a vehicle's emissions, removing a catalytic converter will almost certainly result in a vehicle's emissions to exceed type approval limits and make the vehicle illegal to drive on the road. The guidance also states that engine re-mapping may also result in non-compliant emissions. So while it's not impossible to pass an emissions test with these modifications it is highly unlikely.*

*CAAF arranged for independent inspections of the vehicle with performance remapping specialists in September 2024. The reports said:*

*"Vehicle was recovered to the workshop... identified misfire... Spark plugs were cross threaded and found debris on cylinder seven and eight, they were then cleaned and put back in. Checked coil packs, found a mismatch of brands on cylinder five. L underside inspection showed that cats have been removed. ECU was then removed and benched for software diagnosis - evidence of emissions being disabled but nothing was found for performance enhancement"*

*"Inspected this vehicle and found both exhaust pipes after the CATS have been cut open and re-welded up. The welding looks to be very recent from the last few months. This suggests both CATS have been de-catted."*

*I've seen copies of photos taken of the welding. The degradation of the pipework surrounding it suggests the car hasn't been driven much since the modifications. While this isn't conclusive evidence the car was modified post sale it does suggest the modifications were recent.*

*Subject to any further information I might receive I think it more likely than not that the vehicle was modified after the sale. I say this because it's unlikely the vehicle would have passed its MOT on the day of sale, 16 October 2023, and any modifications would've been picked up in the pre-sale check on 13 October. In addition the inspections note the modifications were very recent and I see no reason why Garage A would have carried them out either just before sale or, as suggested by Mr K, on or around 14 November.*

*The dealer has provided text messages about insurance, and screen shots and video from social media relating to the remapping which loosely suggests Mr K was aware of the remapping and not unhappy with it. But this isn't evidence I've relied on to reach my conclusions.*

*Satisfactory quality*

*I've thought very carefully about the reports I've seen and the testimony of both parties.*

*I'm persuaded it is likely there was an oil leak present or developing at the point of purchase as noted by Garage B's video and the subsequent reports from Garages D and E and this was related to the rocker cover gasket. It seems this has been replaced and paid for by Mr K. And subject to any further information I might receive I think it fair and reasonable that the cost of this specific repair is refunded to Mr K.*

*I can see that Mr K raised this with the dealer and warranty company and it caused him some inconvenience so I think CAAF should pay him £75 in compensation.*

*Mr K has said he paid for brakes to be fixed due to seizure. He's provided an invoice for the parts. I'm not disputing Mr K here, but I've not seen any diagnostic report indicating what the problem was with the brakes nor has Mr K discussed this with the dealer, so I don't think it would be fair or reasonable for me to instruct CAAF to refund these costs.*

*Further issues have developed with the vehicle related to cracked aligners on cylinders seven and eight, fuel injectors and continued misfiring. Mr K first reported the misfiring on 14 November at which point Garage A did do repairs but also noted the vehicle modifications.*

*It is possible that the oil leak could have caused or contributed to issues with the engine. But the modifications are significant, and it is also possible that these contributed to or caused the engine problems. I also note that Mr K was able to drive the vehicle over 1,000 miles between October and January which could mean engine issues developed since sale. As I've not seen enough evidence to persuade me that the oil leak specifically caused the further problems with the car, and I am persuaded the vehicle was likely modified post sale I don't believe it would be fair for me to hold CAAF responsible for the problems with the engine misfiring/cylinder/injectors.*

CAAF didn't respond to my provisional decision. Mr K didn't agree and made some further comments which I have responded to below where appropriate.

### **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.

In his response to my provisional decision Mr K said the morning after he acquired the car he took it to Garage B which spotted the oil leak which the dealer had denied. He said Garage E had also noticed there was an oil leak and that the plugs and coil packs had not been changed by Garage A. Mr K said he'd been mis-sold the vehicle. He went on to say he has evidence that the vehicle has done over 100,000 miles not 1,000 that is stated in the provisional decision. He said a vehicle cannot be sold if it has clocked over 100,000 miles.

As I wrote above I'm persuaded there was an oil leak and that CAAF should refund Mr K the cost of this. In my comments I noted that Mr K has driven the car "over 1,000 miles between October and January which could mean engine issues developed since sale". I was not commenting on how many miles the car had been driven in total.

The plugs and coil packs are considered wear and tear items. When Mr K acquired the car it

had 94,100 miles on the clock. So it is possible that these items needed attention, but I haven't seen any evidence to persuade me problems with these items weren't because of wear and tear. Nor have I seen any evidence which suggests these items caused issues with the engine independently of any modification. They are mentioned on the invoice dated 17 November by Garage A which is the same invoice that the modifications were first noted.

As Mr K hasn't provided any new evidence concerning whether the oil leak specifically caused the further problems with the car, nor relating to my conclusion that the vehicle was likely modified post sale I still don't believe it would be fair for me to hold CAAF responsible for the problems with the engine misfiring/cylinder/injectors.

Mr K believes he's been mis-sold the vehicle. This is a new complaint point. If Mr K wants to pursue this he should raise a new complaint with CAAF so that it can investigate first.

### **Putting things right**

To put things right CA AUTO FINANCE UK LTD, trading as CA Auto Finance UK must:

- Refund the rocker cover purchase - £147.56\*.
- Refund the cost of repairs to rocker cover oil leak - £490.00\*.
- Refund of diagnostic fee charged by dealer when bringing oil leak to their attention - £160\*.
- Pay 8% simple yearly interest on all refunded amounts from the date of payment until the date of settlement.
- Pay Mr K £75 for the distress and inconvenience this caused.

\*Mr K must provide receipts of these items to CAAF.

### **My final decision**

My final decision is I uphold this complaint and CA AUTO FINANCE UK LTD, trading as CA Auto Finance UK must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 6 February 2025.

Maxine Sutton  
**Ombudsman**