

The complaint

Mr A complains that a used car supplied to him by CA Auto Finance UK Ltd (CA Auto) under a personal contract purchase (PCP) agreement is of unsatisfactory quality and that the car and the PCP agreement were mis-sold.

What happened

In February 2023, Mr A entered into a PCP agreement with CA Auto for a used car which had a cash price of £59,144.58. The car was just under five years old and had done around 47,897 miles. Under the agreement, Mr A paid a deposit of £1,000 and is to make 48 monthly payments of £837.35. There is a balloon payment at the end of the term of £36,464.

Since taking delivery of the car, Mr A has experienced numerous problems with it. He's given us and CA Auto a detailed account of what each of these problems was, when they occurred and how they were resolved. Since everyone is familiar with these details, I'll just summarise them here:

- In March 2023, when Mr A collected the car, the tyres were defective. They were replaced and Mr A was reimbursed his outlay for this.
- On the same day, and for a number of days after that, the car alarm went off at frequent and regular intervals. I understand a vehicle tracking company refitted the tracker. Mr A says he was told the tracker hadn't been correctly fitted by the supplying dealership.
- In June 2023, some of the parking sensors failed – Mr A says they were constantly beeping whether he was travelling at speed or stationary. Initially, the dealership that inspected the car couldn't find a fault but charged Mr A £40 and £151.99 for two sets of diagnostic tests and a day's car hire. A few months later it did find a fault and some of the sensors were replaced (for more on that, see below).
- In November 2023, the suspension on the car failed and the front lower control arms had to be replaced, costing Mr A £576.
- In March 2024, the climate control system on the passenger side stopped working and had to be repaired. It was at this point that the parking sensors I've already referred to were also repaired. These repairs were covered by Mr A's warranty. But he was charged £69.99 to have the parking sensors painted.
- In April 2024, an engine management light started showing on the car's dashboard. The throttle body, the NOx sensor and the Exhaust Gas Recirculation (EGR) assembly failed and had to be repaired, costing Mr A £2,685.64. Mr A also paid £1,047.22 for a hire car while his was in for repair.
- In May 2024, the air suspension failed again, requiring a different replacement part from the time of the first failure, costing Mr A £1,056.50 to repair.

- In June and July 2024, the climate control system failed again, requiring two separate repairs. Mr A says these repairs cost him £865.40 and £432, respectively. But Mr A hasn't been able to show us proof he paid for the repairs costing £865.40.
- In August 2024, the blind spot assistance system failed (and I understand this problem is ongoing).

All in all, by my calculation, (but excluding the July 2024 costs of £865.40 I've just mentioned) Mr A wants CA Auto to reimburse him £5,012.12 for the various repairs to his car that I've set out above, plus £1,047.22 in car hire costs.

Mr A's original complaint in February 2023 was that his car finance had been mis-sold. Among other things, he said "*excessive unnecessary*" interest was added to the agreement and he believed the original cash price of the car and the balloon payment had been artificially increased.

CA Auto didn't uphold Mr A's complaint. It said there was no evidence to suggest Mr A wasn't aware of the amount he was borrowing or the interest he was being charged. CA Auto said Mr A was clearly aware of the cash price of the car and the balloon payment amount. And in relation to how the car was valued, CA Auto said this is determined by many factors, such as the model, age, mileage, condition of the car and current market conditions.

Unhappy with this outcome, Mr A referred his complaint to us saying the car and the finance had been mis-sold to him. As part of his complaint, he included correspondence that highlighted some of the problems he'd been having with his car, describing them as horrific ongoing faults and failures.

The investigator who looked at Mr A's complaint used our inquisitorial remit to investigate all its circumstances, not just the mis-sale element, and upheld it. Our investigator focussed in particular on the problems with the car Mr A had highlighted. In his view on the complaint he said that, while he didn't think the car finance had been mis-sold, he also didn't think the car was of satisfactory quality when CA Auto supplied it or that it was reasonably durable.

CA Auto disagreed with our investigator's view. It said that, by agreeing to the repairs, Mr A showed he didn't have significant issues with the car. And it said if Mr A felt strongly about a mis-sale, it was inconsistent of him to proceed with the repairs. So Mr A's complaint came to me to decide.

In my provisional decision of 19 December 2024, I explained why I intended to uphold Mr A's complaint for broadly the same reasons as our investigator – but I wanted to give CA Auto a final opportunity to engage with Mr A's quality of goods complaint. Mr A has said he's in agreement with my provisional decision. CA Auto hasn't responded to it.

Early on in his complaint, Mr A showed us proof he'd paid for most of the repair costs he wants CA Auto to reimburse him for (and our investigator has shared this information with CA Auto). Mr A has also recently shown us proof of payment for repair costs of £576 (from November 2023) and £1056.50 (taken from a quote from May 2024 and included in a receipt for £1239.34 (which also included the cost of replacement brake pads)).

Mr A's complaint has now come to me for a final decision.

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've also considered the relevant law and regulations, any regulator's rules, guidance and standards, any codes of practice, and (if appropriate) what I consider was good industry practice at the time.

Having done so, and for the reasons I gave in my provisional decision, I've decided not to uphold Mr A's complaint that the car and the finance were mis-sold. But I have decided to uphold Mr A's complaint that the car wasn't of satisfactory quality – again, for the reasons I gave in my provisional decision. In that decision, I said:

“Mr A's mis-sale complaint

Mr A has asked why he was sold a finance deal that had a 9.9% per annum interest rate when the Bank of England rate at the time was 4%. He says he didn't have any negative credit or problems with finance, so he thinks the rate he's being charged is excessive. Mr A also says his car now has negative equity of over £24,000 and is worth less than the final balloon payment under the PCP.

Our investigator didn't uphold this aspect of Mr A's complaint. And Mr A hasn't said he disagrees with our investigator's findings. But, for the avoidance of doubt, I've looked at Mr A's PCP agreement. The cash price of the car, the interest rate of 9.9% per annum on the finance and the amount of the balloon payment are clear. And I've listened to two calls CA Auto has sent us from before Mr A entered into the PCP agreement. In these calls, the cash price of the car, the interest rate of 9.9% per annum on the finance and the amount of the balloon payment are all made clear. And Mr A is asked if he's happy with what's been discussed and he says he is. In one of the calls, Mr A talks about the car potentially going into negative equity, with the balloon payment being more than the value of the car. So I think Mr A was aware of this potential issue with the finance, if he decided to keep the car at the end of the term, and nevertheless decided to go ahead with it.

So, from what I've seen so far, I don't think the car or the finance were mis-sold or misrepresented to Mr A.

Mr A's quality of goods complaint

CA Auto supplied Mr A with a car under a PCP agreement. This is a regulated consumer credit agreement, which means we can look at complaints about it against CA Auto.

The Consumer Rights Act 2015 (CRA) covers agreements such as Mr A's PCP agreement. Under it, there's an implied term that goods supplied will be of satisfactory quality. And the CRA says goods will be considered of satisfactory quality where they meet the standard that a reasonable person would consider satisfactory – taking into account the description of the goods, the price paid, and other relevant circumstances. I think in this case those relevant circumstances include, but are not limited to, the age and mileage of the car, the cash price and the durability of its component parts.

The CRA also says the quality of goods includes their general state and condition, as well as other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety and durability. Durability means the component parts of the car must last a reasonable amount of time.

When Mr A took possession of the car, it was around five years old, had covered under 50,000 miles and had a cash price of just under £60,000. So I wouldn't have the same expectations of Mr A's used car as I would of one that was brand new. As with any car,

there'll be ongoing maintenance and upkeep costs. Parts will naturally wear over time and it's reasonable to expect these may need to be replaced. In used cars, it's more likely parts will need to be replaced sooner or be worn faster than in brand new cars. So CA Auto wouldn't be responsible for anything that was due to normal wear and tear while the car was in Mr A's possession. But given the car's age, mileage and price, I think it's fair to say a reasonable person wouldn't expect anything significant to be wrong shortly after it was supplied to Mr A.

That hasn't been Mr A's experience. As is evident from the summary I've set out above, Mr A has been faced with a series of problems with the car. Given the age, mileage and the price, I don't think a reasonable person would expect the parking sensors, the suspension, the climate control and the EGR all to fail within 18 months of supply. I also don't think any of these failures are likely to have resulted from normal wear and tear while the car was in Mr A's possession. That leads me to conclude it's likely either that the car was inherently defective when it was supplied to Mr A or that its parts weren't sufficiently durable. And that means I don't think the car was of satisfactory quality when CA Auto supplied it to Mr A.

CA Auto says that, by getting the car repaired, Mr A has shown he doesn't have significant issues with the car and so shouldn't be allowed to reject it. I don't agree. As Mr A says, it's a condition of his PCP agreement that he takes reasonable care of the car, which includes maintaining it in good condition. Also, he presumably bought the car because he needed it to travel around in – and the faults that the car developed in many instances needed immediate attention to keep it on the road. So CA Auto's arguments don't change my findings on this complaint.

Additionally, as I've mentioned above, CA Auto has had – in my view – ample opportunity to give its version of events in respect of the quality of the goods it supplied. It's not given us any supporting evidence, or even commented on those events – other than to say that it disagrees. I'd like to have known, for example, whether and the extent to which CA Auto was involved in the discussions about the repairs Mr A carried out as a result of the things that went wrong. I'd also like to have had more detailed comments, as well as a history of correspondence with Mr A about the issue. I've not received that though.

Where evidence is incomplete, unavailable or contradictory – as it is here – I need to base my decision on balance. In other words, what I think is most likely to have happened. Based on what I've seen so far, I've decided the car was of unsatisfactory quality when supplied, so I now need to look at what CA Auto needs to do to put things right for Mr A.

The first thing is that I think Mr A has the right to reject the car, have his advance payment of £1,000 refunded (plus interest) as well as the repair costs he's paid out (which, by my calculation, total £5,877.52 (plus interest)). The CRA says a consumer who has the right to reject goods may only exercise that right if (among other things) after one repair or replacement, the goods don't conform to contract. This is known as the single chance of repair. It applies to all issues with the goods and to all repairs. It seems to me in the circumstances of this case, with the long list of faults that Mr A has had to get repaired, CA Auto has exhausted its single chance of repair. It's because of that history that I think it's fair and reasonable for Mr A to be able to reject the car and get the refunds I've mentioned.

Mr A has had the use of the car for the majority of the time that it's been in his possession – even if, on occasion, he's had to drive it with unresolved faults. And when he didn't have the use of his car because it was in for repairs, Mr A hired a car. In these circumstances, I don't think it would be fair and reasonable to refund Mr A any of his PCP payments up until the end of September 2024. But I do think it was fair and reasonable of Mr A to mitigate his loss in not having the use of the car when it was in for repairs by hiring another car. And so I think it's fair and reasonable to direct CA Auto to reimburse Mr A his car hire costs of £1,047.22

(plus interest). Mr A has also told us that, since the end of September 2024, he's stopped using the car and has made alternative arrangements – having lost all faith in its reliability. In these circumstances, I think it's fair and reasonable CA Auto should refund Mr A all his PCP payments from October 2024 onwards (plus interest).

Mr A has clearly suffered considerable distress, upset and worry as well as significant inconvenience and disruption that has taken a lot of extra effort to sort out as a result of CA Auto's failure to supply him with a car of satisfactory quality. As I've mentioned, he says he's lost all faith in the car's reliability, and I can understand why. He says the unexpected ongoing costs in getting his car repaired have caused him financial issues. He says he's experienced considerable stress and has had sleepless nights worrying about what the next bill might be for. And he says he worried about travelling long distances in the car with his family for fear something going wrong on the motorway. For all of this distress and inconvenience, I think it's fair and reasonable CA Auto should pay Mr A £750."

As I've mentioned, CA Auto hasn't responded to my provisional decision. And, as I've also mentioned, Mr A says he agrees with it. Mr A also says he hasn't been able to get hold of an invoice showing proof of the cash payment he says he made for the repairs of £865.40 that I mentioned at the beginning of this decision. Without proof of payment, I can't direct CA Auto to reimburse Mr A this amount, and I believe Mr A understands this.

Having looked at everything again, I don't see any reason to depart from the conclusions I set out in my provisional decision, other than to reduce the amount of the repair costs that CA Auto must reimburse Mr A by £865.40.

My final decision

For the reasons I gave in my provisional decision (and which now form part of this final decision), I uphold Mr A's complaint in part and direct CA Auto Finance UK Ltd to:

- End Mr A's PCP agreement with nothing further to pay and collect the car at no further cost to him.
- Refund Mr A's advance payment of £1,000.
- Reimburse Mr A his car hire costs of £1,047.22.
- Reimburse Mr A the repair costs he's paid and shown us proof of payment for (which, as I've set out at the beginning of this decision, I believe to be £5,012.12).
- Refund Mr A's PCP payments from October 2024 onwards because he's stopped using the car.
- Pay Mr A 8% simple yearly interest on all refunded and reimbursed amounts from the date of payment until the date of settlement.
- Pay Mr A £750 for the distress and inconvenience being supplied with a car of unsatisfactory quality has caused him. CA Auto Finance UK Ltd must pay the compensation within 28 days of the date on which we tell it Mr A accepts my final decision. If CA Auto Finance UK Ltd pays later than this it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

If CA Auto Finance UK Ltd considers that tax should be deducted from the interest element of this award, it should give Mr A a certificate showing how much it's taken off so he can reclaim that amount, if he's eligible to do so.

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

Jane Gallacher
Ombudsman