

## **The complaint**

Mr F is unhappy that a car supplied to him under a hire purchase Personal Contract Purchase (PCP) agreement with CA Auto Finance Ltd (CAAF) was of an unsatisfactory quality.

When I refer to what Mr F has said and what CAAF have said, it should also be taken to include things said on their behalf.

## **What happened**

In January 2021, Mr F was supplied with a new car through a hire purchase (PCP) agreement with CAAF. The cash price, which included the First Registration Fee and 12 months Road Fund Licence, was £42,600.00. He paid an advance payment of £6,500.00 and the agreement was for £36,100.00 credit over 48 months, with 47 monthly payments of £496.41 and a final payment of £18,799.00. At the time of supply, the car was new and had done 50 miles.

Shortly after acquiring the car, it started leaking through the roof. Mr F contacted the dealer who supplied the car, and it was identified that the incorrect interior liner had been fitted. This was repaired by the dealer which resolved the issue.

When Mr F took the car for its annual health check in August 2023 it was identified that the rear wheel bearings needed to be replaced. Mr F also informed the dealership about corrosion he had noticed on the car, which had travelled 25,176 miles at this time. The car was taken in for repair in September 2023, but as parts were not available it remained with the dealer. Although Mr F was supplied with a courtesy car, it was not of the same type as the car he had acquired and Mr F said it was not suitable for him as he lives in a mountainous area. In November 2023 he was supplied with a loan car directly from the manufacturer.

The wheel bearings were repaired in March 2024 but when Mr F went to collect the car he noticed that the corrosion had not been repaired. He said he wanted to reject the car as the repairs had already taken over six months and, as some of the issues had not been resolved, he refused to take the car. In April 2024 the manufacturer requested the return of the loan car. Mr F was given very little notice of this and then had to hire a car until he collected his car.

Also in April 2024, Mr F complained to CAAF saying he wished to reject the car. CAAF issued their final response letter in June 2024 and did not uphold the complaint. They said this was because the issues did not make the car of unsatisfactory quality, as the corrosion issues were not present at the point of sale, and they asked Mr F to collect the car, which he was reluctant to do but did so in September 2024.

Mr F was unhappy with this response, so he referred his complaint to the Financial Ombudsman Service for investigation.

Our investigator said that the evidence provided showed that it was most likely the corrosion issues were as a result of an inherent fault that was either developing or present when the car was supplied and given the age and mileage of the car when these issues occurred, he didn't think the car was of sufficiently durable and therefore not of satisfactory quality. Because of this our investigator said Mr F should be allowed to reject the car with a refund of costs.

Mr F didn't agree with our investigator and asked to be given a similar replacement car instead. Our investigator explained this is not a usual solution and can be very difficult to fulfil as a car of similar specification, age and mileage will often not be available. Mr F accepted this and confirmed he wished to proceed with rejecting the car. In December 2024 Mr F obtained an independent quote for the outstanding repairs which totalled just over £12,000.

CAAF asked for several extensions to allow them time to consider what the investigator had said but have not provided any response.

Because CAAF have not responded this matter has been passed to me to make 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.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mr F was supplied with a car under a hire purchase (PCP) agreement. This is a regulated consumer credit agreement which means we can investigate complaints about it.

The Consumer Rights Act 2015 (CRA) covers agreements such as the one Mr F entered into. Under this agreement, there is an implied term that the goods supplied will be of satisfactory quality. The CRA says that 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 and the cash price. The CRA says the quality of the 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.

So, if I thought the car was faulty when Mr F took possession of it, or that the car wasn't sufficiently durable, and this made the car not of a satisfactory quality, it would be fair and reasonable to ask CAAF to put this right.

Mr F acquired a brand-new car from CAAF and so I think a reasonable person would expect the level of quality to be higher than a second-hand car, and that it would be free from defects, even minor ones, for a considerable period of time.

First, I considered if there was a fault with the car. I've considered evidence provided by both sides and the independent quotation Mr F provided, and it is not in dispute that there is a fault with the car. Both CAAF and the dealer who supplied the car have acknowledged the corrosion as Mr F has described. This is also described in detail in the independent quotation which lists all the parts that need to be renewed or replaced and painted giving total repair costs at £12,135.72. But just because there are or were faults found with the car, does not automatically mean that the car was not of satisfactory quality at the point of supply. So, I've gone on to consider if the car was of satisfactory quality when it was supplied to Mr F.

Mr F has supplied the vehicle health check reports completed by the supplying dealer which confirm the issues relating to the incorrect interior lining and rear wheel bearings, both of which were repaired by the supplying dealer.

In their final response CAAF said the corrosion fault happened too long after the car was supplied for it to have been present at the point of supply, but I need to consider how durable the car was, and if parts fail prematurely whether this indicates the faults were already present when the car was supplied. As this was as new car at the point of supply, I think a reasonable person would not expect such significant corrosion issues to occur when the car was less than three years old and had only completed around 25,000 miles.

Mr F has told us that the dealership who supplied the car told him the corrosion appeared to be galvanic which occurred due to dissimilar metals. I haven't seen anything to suggest that Mr F was in any way responsible for the corrosion.

I don't think a reasonable person would expect that level of corrosion to be present on a three-year-old car that has travelled approximately 25,000 miles. CAAF asked Mr F to provide more evidence that the car was not of satisfactory quality when supplied but I don't think this is necessary and I have enough evidence to persuade me that it is more likely than not that the car had an inherent fault that was either developing or present when the car was supplied. Given the age and mileage of the car, I don't think the car was sufficiently durable and so was not of satisfactory quality when it was supplied. Mr F has said he does not want to continue with more repairs and taking into account the time that has already lapsed I think it would be fair for Mr F to be able to reject the car.

### **Putting things right**

Mr F did not have use of his car between September 2023 and September 2024 as the car was not of satisfactory quality and so he should get a refund of payments made during that time. However, he was provided with courtesy cars and then a loan car between September 2023 and April 2024 and so it would not be fair to refund payments while he was kept mobile. But Mr F has said that the cars provided between September and November 2023 were not a like for like replacement and were not suitable and so I believe a refund of 50% of his monthly payments for this period is a fair reflection of the loss of use caused to Mr F. As Mr F was provided with a loan car from the manufacturer between November and April 2024 it would not be fair to ask CAAF to refund payment during this period.

Between April 2024 and September 2024 Mr F was left without a car. While the dealer from whom Mr F acquired the car said it was ready to collect, the corrosion had not been repaired and the car was not of satisfactory quality. So, I believe it was reasonable of Mr F to want to

reject the car and I think a refund of the monthly payments Mr F made during this time would reflect his loss of use.

Since September 2024 Mr F has used the car, but has maintained throughout that he wants to reject the car and has only used it out of necessity until his complaint is resolved. Given the corrosion issues with the car, I am satisfied that Mr F's usage and enjoyment of the car has been impaired. Because of this, I also think it's fair that CAAF refund some of the payments Mr F made. And I think 10% of the payments made during this time fairly reflects the impaired use caused by the car not being of a satisfactory quality.

It is clear that Mr F has been inconvenienced by having to arrange for the car to be repaired, being without his car for an extended time and as the corrosion has not been repaired. And he was further inconvenienced by being provided with a courtesy car that wasn't suited to his needs. I think, Mr F would not have had this inconvenience, had CAAF supplied him with a car that was of a satisfactory quality. So, I think CAAF should pay him £300 in compensation to reflect the distress and inconvenience caused.

### **My final decision**

For the reasons explained, I uphold Mr F's complaint about CA Auto Finance Ltd and therefore, CAAF should:

- end the agreement with nothing more to pay
- collect the car at no cost to Mr F
- remove any adverse entries relating to this agreement from Mr F's credit file
- refund the £6,500 deposit Mr F paid
- refund 50% of the payments made for the hire purchase arrangement for the period from September 2023 to November 2023 when Mr F was without his car and was given unsuitable courtesy cars
- refund 100% of the payments made for the hire purchase arrangement for the period from April 2024 to September 2024 when Mr F was without his car and had no loan or courtesy car
- refund 10% of the payments made for the hire purchase arrangement from 27 September 2024 when Mr F collected his car until the car is collected from him
- apply 8% simple yearly interest on the refunds, calculated from the date Mr F made the payment to the date of the refund<sup>†</sup>
- pay Mr F an additional £300 to compensate him for the distress and inconvenience caused by being supplied with a car that wasn't of a satisfactory quality.

<sup>†</sup>If CAAF considers that tax should be deducted from the interest element of my award, they should provide Mr F with a certificate showing how much they have taken off so he can reclaim that amount, if he is eligible to do so.

I note that the PCP final payment under this agreement was due in January 2025 but understand that CAAF have not collected it pending the outcome of Mr F's complaint. If that is not the case and the payment has been collected it should also be refunded to Mr F with interest applied as detailed above.

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

Jo McHenry

**Ombudsman**