

## **The complaint**

Mr W complains that a used car supplied to him by Zopa Bank Limited (Zopa) under a hire purchase agreement is of unsatisfactory quality.

## **What happened**

In November 2023, Mr W entered into a hire purchase agreement with Zopa for a used car that was around nine years old and had done around 108,000 miles. The cash price of the car was £6,500. Under the agreement, Mr W is to make 60 monthly payments of £159.78.

Mr W says shortly after taking delivery of the car, he noticed a problem with the gearbox, which was making a grinding noise in second gear when the engine was hot. He raised this with the supplying dealership and the company from whom he had a warranty and was asked to get a diagnostic report.

The report Mr W got from a local garage said the fault was from a suspected worn synchromesh and there was also a gear oil leak, possibly from the nearside driveshaft but also coming from the filler plug. The report recommended fitting a reconditioned gearbox, including a clutch and nearside driveshaft seal and gave a quote for these repairs of £1,878 plus VAT. After getting this report, Mr W complained to Zopa that the car was of unsatisfactory quality.

Mr W's car was then taken to a specialist garage for inspection and repair. In its report, the garage said it'd found no faults with the gearbox. It said there was no grinding noise and no evidence of oil leaks either when the car was inspected on a ramp or taken for a test drive.

So Zopa didn't uphold Mr W's complaint – it said the garage hadn't been able to replicate the fault with the gearbox and clutch.

Unhappy with this outcome, Mr W referred his complaint to us, saying the fault with the gearbox was still present. The investigator who looked at it said Zopa should arrange for a further independent inspection of the car to be carried out. Mr W accepted our investigator's recommendation. Zopa initially seemed to accept it too – but then said there was no fault with the car, so it wouldn't complete any further inspections for Mr W. Then, following mediation by our investigator, Zopa agreed to a further inspection.

That inspection was carried out in October 2024. The engineer's report said the car's second gear synchro needed attention and the car had been overfilled (I'm presuming with oil) to dampen noise but this subsequently caused pressure leading to the failure of the driveshaft seal. The report notes the faults were found soon after supply and so, on the balance of probability, were present at the point of supply.

Following the report, Zopa offered to pay for repairs to Mr W's car. It asked him to get two quotes so it could choose the most competitive one but it didn't want him to get main dealership quotes.

Mr W turned down Zopa's offer. He questioned why he should get two more quotes when he'd already got one – he said this would only delay the process further – and why he

couldn't get quotes from a main dealership, when they were likely to have more experience of his make and model of car and give him greater peace of mind than others. Mr W asked if Zopa would pay for him to have a courtesy car while his was in for repair. And Mr W also said he reported the fault to the supplying dealership within 30 days of being supplied with the car and so should've been entitled to repair, replacement or refund. He said that, as the issues he'd had were ongoing for almost a year at a considerable loss of time and money, this should also be rectified and fairly compensated for.

In my first provisional decision, I explained why I intended to uphold Mr W's complaint. I also invited Mr W to get a new repair quote from a dealership of his choosing before I made a final decision on his complaint.

Mr W accepted my first provisional decision and sent us a new repair quote from a local main dealership for £5,247.23 plus VAT. Mr W said the quote included a fee of £25 a day for a courtesy car. Our investigator sent Zopa a copy of the quote.

Zopa responded to my first provisional decision saying it had no further evidence to add. But Zopa did give me some comments on my decision. Having considered the second repair quote Mr W got, as well as Zopa's comments, I issued a second provisional decision on 22 January 2025. In it, I set out why I didn't think it would be fair and reasonable to direct Zopa to pay Mr W's second repair quote.

Zopa says it has nothing to add following my second provisional decision. Mr W says he is happy to proceed to a final decision on his complaint – but he has commented that he thinks his first quote is no longer valid and the cost of the repairs will be higher due to inflation. So Mr W'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, for the reasons I've given in my two provisional decisions, I've decided to uphold Mr W's complaint. In my first provisional decision, I said:

*“Zopa supplied Mr W with a car under a hire purchase agreement. This is a regulated consumer credit agreement, which means we can look at complaints about it against Zopa. The Consumer Rights Act 2015 (CRA) covers agreements such as Mr W's hire purchase agreement. Under it, there's an implied term that the 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 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. Durability means the component parts of the car must last a reasonable amount of time.*

*The CRA also implies that goods must conform to contract within the first six months. So, where a fault is identified within that time, there's an assumption it was present when the car was supplied, unless Zopa can show otherwise.*

*Following the independent expert's report, Zopa has agreed to carry out the necessary repairs to Mr W's car. So it seems to me it's no longer disputed there was a fault with the car that was present when it was supplied to Mr W. As such, I'm satisfied I don't need to consider the merits of this issue in this decision. Instead, I'll focus on what I think Zopa should do to put things right for Mr W.*

*From the outset, Mr W said he wanted the faults with his car repaired. Under the CRA, he has that right and Zopa has now agreed to pay for the repairs. But Zopa wants Mr W to get two quotes, neither of them from a main dealership. Mr W says he's already got a quote (which I've referred to at the beginning of this decision) – and he asks why he shouldn't be able to get a quote from a main dealership if he wants to.*

*The quote Mr W got was in January of this year. Since then, he's been driving the car – and he's mentioned recently the fault is getting worse. So it's possible the car may need more work than was quoted for in January, it having gone unrepaired for so long. In these circumstances, I think the best outcome would be for Mr W to get one new quote from a dealership of his choosing, which I can then direct Zopa to pay. Since the obligation is on Zopa to repair, I don't think it's fair and reasonable to ask Mr W to go to the trouble of getting more than one quote – or to limit his choice on who he can get that quote from. If Mr W can get a quote and send it to us by 18 December 2024 that would be very helpful. But if Mr W would prefer to stick with the quote he's already got, I think that would also be fine – all I'd ask is that he lets us know his preference.*

*Under the CRA, Mr W has the right to repair without significant inconvenience to himself. So in the circumstances of this case, I think it would be fair and reasonable for Zopa to pay for Mr W to have a hire car while his is in for repair.*

*For almost a year now, Mr W has been driving a car with a fault he identified shortly after Zopa supplied it – from the video I've seen, the grinding sound in second gear is very pronounced and must make driving the car difficult and a bit alarming. While he has had use of the car, I think that use has been impaired significantly because the car was of unsatisfactory quality. So in these circumstances, I think it's fair and reasonable for Zopa to reimburse Mr W 40% of his monthly hire purchase payments from November 2023 until his car is repaired, plus interest.*

*Mr W also refers to his considerable loss of time and money in dealing with the issues he's had with his car. Zopa initially relied on the report it got from the specialist garage to reject Mr W's complaint. But given its findings conflicted with Mr W's report and Mr W said the fault was continuing, I think Zopa should've arranged for the car to be inspected again sooner than it did. This has clearly been a drawn-out and troubling experience for Mr W and he's had to spend time trying to sort things out that he wouldn't have had to if the car had been of satisfactory quality when Zopa supplied it. So, from what I've seen so far, I think it's fair and reasonable to direct Zopa to pay Mr W £200 in compensation for the distress and inconvenience he's suffered as a result of being supplied with a car that was of unsatisfactory quality.*

*Finally, I think Mr W paid £30 to the garage he instructed to give a diagnostic report on the car's faults. This wouldn't have been needed if the car had been of satisfactory quality. So I think it's fair and reasonable to direct Zopa to reimburse Mr W for this expense, plus interest."*

I've already noted Mr W accepted my first provisional decision and got a new repair quote from a local main dealership. In its comments on my first provisional decision, Zopa said main dealership quotes are considerably more expensive than quotes from other garages. And Zopa said it asks for two quotes so it can select the one that's most competitive. Zopa also asked why it should be liable for any additional damage Mr W caused to his car while driving it.

Responding to these points, in my second provisional decision, I said:

*"I must say, I was surprised by the high cost of this new quote – £6,296.68 including VAT. When a financial business does something wrong (as Zopa has here), our role is (as much as possible) to put the consumer back in the position they would've been in had the business done everything as it should've. Zopa now accepts it ought to pay for the repairs to be carried out. But I can only direct Zopa to do so where that's proportionate. So I don't think it would be fair and reasonable or proportionate to require Zopa to fund repairs where their cost might approach that of the goods themselves. That would be disproportionate to the situation.*

*In this case, Mr W was supplied with a car that had a cash price of £6,500, that was around nine years old and that had done around 108,000 miles. If I were to direct Zopa to pay to have a new clutch and gearbox fitted at a cost of nearly £6,300 (which is only slightly less than the cash price of the car in November 2023), that would put Mr W in a substantially better position than if Zopa had supplied him (as it should've done) with a car that didn't have the worn synchromesh and other problems. I don't think doing that would be a fair and reasonable outcome to this complaint.*

*So, instead, I'm intending to direct Zopa to pay for the repairs in line with the original quote Mr W got for fitting a reconditioned gearbox at a cost of £1,878 plus VAT. And, as I said in my first provisional decision, Zopa should also pay Mr W's reasonable car hire costs when his car goes in for repair. I think this remedy would put Mr W closer to the position he ought to have been in when Zopa supplied the car. I'm aware Mr W wishes to keep the car and have repairs carried out, rather than to be allowed to reject it. I agree that's the right remedy here. However, should both Mr W and Zopa prefer to allow rejection of the car as an alternative to what I've set out in this provisional decision, I'll leave it to them to arrange that. Otherwise, I set out below what I intend to require of Zopa.*

*In relation to Zopa's comment about not being liable for possible additional damage, the point I was making in my first provisional decision was that Mr W's car may have developed further related problems as a result of Zopa's delay in carrying out the repairs it was responsible for. And, as I've said above, my proposed remedy is for Zopa to replace the damaged part – so I don't see that it matters if the damage to that part has worsened. I think it's fair and reasonable for Zopa to be liable for such related damage, if there was any."*

Mr W has said he's happy to proceed to a final decision on his complaint, while Zopa says it has nothing to add. Although I note Mr W's comment that his first quote is no longer valid and will be higher due to inflation, he hasn't given me any evidence to support what he says. Because I haven't seen anything to persuade me the first quote is no longer representative of the cost of the repairs it describes, Mr W's comment doesn't change my conclusion that it's fair and reasonable to direct Zopa to pay for them in line with that quote.

### **My final decision**

For the reasons I've given in my first and second provisional decisions (which now form part of this final decision), I uphold Mr W's complaint and direct Zopa Bank Limited to:

- Pay for repairs to Mr W's car in line with the first quote he got of £1,878 plus VAT.

- Pay Mr W's reasonable car hire costs when his car goes in for repair.
- Reimburse Mr W £30 for the diagnostic report he got in January 2024.
- Refund Mr W 40% of all payments he's made under his hire purchase agreement from November 2023 until the date of the repair.
- Pay Mr W £200 in compensation for the distress and inconvenience he's suffered as a result of being supplied with a car that was of unsatisfactory quality. Zopa Bank Limited must pay this compensation within 28 days of the date we tell it Mr W has accepted my final decision. If it doesn't, Zopa Bank Limited must pay Mr W 8% simple interest a year on the compensation from the deadline date for settlement to the date of payment.
- Pay Mr W 8% simple interest a year on all reimbursements and refunds calculated from the date of payment until the date of settlement.†

†If Zopa Bank Limited considers that tax should be deducted from the interest element of my award, it should give Mr W a certificate showing how much it's taken off so he can reclaim that amount from HM Revenue & Customs, if he's eligible to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 11 March 2025.

Jane Gallacher  
**Ombudsman**