

## **The complaint**

Mrs K is unhappy that a car supplied to her under a hire purchase agreement with Secure Trust Bank Plc trading as V12 Vehicle Finance was of an unsatisfactory quality.

Mrs K has been represented during the claim and complaint process by Mr K. For ease of reference, I will refer to any comments made, or any action taken, by either Mrs K or Mr K as “Mrs K” throughout the decision.

## **What happened**

On 20 November 2023, Mrs K was supplied with a used car through a hire purchase agreement with Secure Trust. On 3 December 2023 the car broke down while Mrs K was driving it, and she noticed an oil leak. She complained to Secure Trust the following day and subsequently obtained two separate diagnostic reports which confirmed a problem.

In a phone call on 4 December 2023, Mrs K asked about her right to withdraw from the agreement. Secure Trust explained the options available and, following this, Mrs K agreed to have the car repaired at no cost. The repairs were arranged for 12 January 2024 but, on 11 January 2024, Mrs K said she didn’t consent to the repairs, and asked to reject the car. However, the repairs were completed, and the car was made available for Mrs K to collect. It’s my understanding that the car hasn’t been collected.

Mrs K wasn’t happy with what’d happened, and she brought her complaint to the Financial Ombudsman Service for investigation.

Our investigator initially said that Mrs K had a 30-day right of rejection, and she didn’t ask to reject the car within this timescale, agreeing to repairs instead. The investigator explained that, in these circumstances, Secure Trust had the right of repair, and they exercised this right. So, they didn’t think Secure Trust had done anything wrong.

However, the investigator thought that Secure Trust should reimburse Mrs K for the cost of the two diagnostic reports she had done; refund her a monthly payment to compensate her for the period the car was unusable, awaiting repair; and pay her an additional £150 compensation for the distress and inconvenience she’d been caused.

Mrs K didn’t agree with the investigator. She said that she no longer wanted the car, and thought Secure Trust should take it back, as well as refunding her the £1,000 deposit she paid. Following this, the investigator revised their opinion. They said that Secure Trust had failed to comply with the Consumer Duty principles, specifically they failed to clearly explain Mrs K’s short-term right to reject in the phone call of 4 December 2023, so Mrs K should now be allowed to reject the car, along with a refund of her deposit and the payments she’d made, and an increase in the compensation to £200.

Secure Trust didn’t agree with this and said they had advised Mrs K of her short-term right to reject. I issued a provisional decision on 23 January 2025, where I explained my intention to uphold the complaint. In that decision I said:

*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. Mrs K was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.*

*The Consumer Rights Act 2015 ('CRA') says, amongst other things, that the car should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of goods, Secure Trust are responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history and its durability. Durability means that the components 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 the first six months, it's assumed the fault was present when the car was supplied, unless Secure Trust can show otherwise. So, if I thought the car was faulty when Mrs K took possession of it, or that the car wasn't sufficiently durable, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask Secure Trust to put this right.*

*In this instance, it's not disputed there was a problem with the car, nor that this fault was present when the car was supplied to Mrs K. As such, I'm satisfied that I don't need to consider the merits of this issue within my decision. Instead, I'll focus on what I think Secure Trust should do to put things right. In doing so, I need to consider both the requirements for short-term rejection and the Consumer Duty regulation put in place by the Financial Conduct Authority ('FCA').*

*Section 22(3) of the CRA states:*

*the time limit for exercising the short-term right to reject ... is the end of 30 days beginning with the first day after these have all happened-*

- (a) ownership or (in the case of ... a hire purchase agreement...) possession of the goods has been transferred to the consumer, [and]*
- (b) the goods have been delivered*

*The agreement started on 20 November 2023, and Mrs K collected the car the same day. As such, her 30-day short-term right to reject started on 21 November 2023.*

*I've listened to the call that took place on 4 December 2023. In this call Mrs K explained the problem with the car she'd been supplied, and asked about withdrawing from the agreement, but also said that she would be amenable to repairs if they weren't major. Secure Trust explained that withdrawal would mean Mrs K would need to repay the agreement in full and would be able to then keep the car. However, they also explained that "if any issues present or developing, in a specific timeframe, within the first 30 days, with the Consumer Rights Act you may have the right to either request repairs on the vehicle or reject the vehicle."*

*Finally, Secure Trust advised Mrs K to contact the broker who arranged the finance agreement if she wanted to have the car repaired. And they provided her with a contact number so she could arrange this.*

*Mrs K then called Secure Trust again the same day. During this call Secure Trust again advised Mrs K that, under the CRA, she had the right to either reject the car, or to have it repaired. They then asked Mrs K if she wanted to have the car repaired, which she said she*

did. But she said that she couldn't get in touch with the broker – the number she'd been given wouldn't connect – and the supplying dealer had told her to call Secure Trust.

Given this, Secure Trust raised a complaint on Mrs K's behalf, and explained their complaint process and what Mrs K could expect. This again included that Mrs K had the right of repair or rejection, as well as an explanation of the difference between withdrawing from the agreement and rejecting the car. Secure Trust followed this up in writing a few days later, which confirmed "as you told us about the problem within 30 days of getting your car, you can ask us to repair it. If you can show there was a fault with the car when we supplied it, you can ask to hand it back."

Given that Secure Trust confirmed Mrs K's right of rejection, both verbally on three occasions and followed this up in writing, I've gone on to consider the FCA's Principles for Business ('PRIN'), specifically those related to Consumer Duty. These apply to any relationship that started on or after 31 July 2023 so, given Mrs K's agreement with Secure Trust started in November 2023, they also apply to this matter.

PRIN 2A.5.3 says:

- (1) A firm must support retail customer understanding so that its communications:
  - a. meet the information needs of retail customers;
  - b. are likely to be understood by retail customers; and
  - c. equip retail customers to make decisions that are effective, timely and properly informed.
- (2) A firm must communicate information to retail customers in a way which is clear, fair and not misleading.

PRIN 2A.5 goes on to say that information must be provided at suitable points; the customer must be given the opportunity to review and assess their options; information must be provided as simply as possible, without the use of jargon; and the communication must be tailored to the customer's needs.

This is where I disagree with the opinion reached by the investigator. Having reviewed the phone calls and the written communication, I'm satisfied that Secure Trust clearly explained, on more than one occasion and in more than one medium, that Mrs K had the short-term right to reject. They also explained the difference between withdrawal from the agreement (which is what Mrs K first asked for) and short-term rejection. Finally, when Mrs K indicated that she wanted the car repaired, which she did without any duress or undue pressure, they followed her instructions and arranged for this. As such, I'm satisfied that Secure Trust met their obligations under PRIN 2A.5.3, and therefore fulfilled their Consumer Duty obligations.

Turning back to the CRA, I've now considered the additional provisions relating to the short-term right to reject. Section 22(6) of the CRA says "if the consumer requests or agrees to the repair or replacement of goods, the period mentioned in subsection (3) [above] stops running for the length of the waiting period." And section 22(8) of the CRA says

The waiting period –

- (a) begins with the day the consumer requests or agrees to the repair or replacement of the goods, and
- (b) ends with the day on which the consumer received goods supplied by the trader in response to the request or agreement.

This means that, in this instance, the 30-day short-term right to reject period was paused on 4 December 2023, the day Mrs K asked for the car to be repaired, and wouldn't restart until the car was repaired. The car wasn't repaired until 12 January 2024.

*However, on 11 January 2024, Mrs K advised Secure Trust that she no longer wanted the car repaired and was therefore asking to be able to reject the car. And, given the timescales described above, she did so within the short-term right to reject period as defined by the CRA. Given this, Secure Trust should've cancelled the repairs and allowed Mrs K to reject the car. But, instead of arranging for the car to be rejected, the repairs went ahead anyway and Secure Trust have since been expecting Mrs K to collect the car and continue making payments.*

*For the reasons given, I'm satisfied that Secure Trust didn't act appropriately, and I intend to ask them to put things right.*

*Mrs K was supplied with the car on 20 November 2023, and it's been off the road and undrivable since 3 December 2023. Since this date, Mrs K hasn't been supplied with a courtesy car. So, while I think Mrs K should pay for the period she was in possession of a working car, all other payments should be refunded.*

*Mrs K also had to pay for the faults on the car to be diagnosed. Given that the car wasn't of a satisfactory quality when supplied, I think it's only fair that Secure Trust reimburse these costs.*

*Finally, I think Mrs K should be compensated for the distress and inconvenience she was caused by the above. But crucially, this compensation must be fair and reasonable to both parties, falling in line with our service's approach to awards of this nature, which is set out clearly on our website and so, is publicly available.*

*I note our investigator also recommended Secure Trust pay Mrs K an additional £200, to recognise the distress and inconvenience she's been caused by the complaint. And having considered this recommendation, I think it's a fair one that falls in line with our service's approach and what I would've directed, had it not already been put forward.*

*I think this is significant enough to recognise the worry and upset Mrs K would've felt by having to arrange for the car to be diagnosed and repaired. And I think it also fairly reflects the fact that Mrs K was further inconvenienced by Secure Trust not allowing her to reject the car when she had the short-term right to do so. As such, this is a payment I'm directing Secure Trust to make.*

*Therefore, I intend to ask Secure Trust to (if they haven't already):*

- end the agreement with nothing more to pay;*
- collect the car at no cost to Mrs K;*
- remove any adverse entries relating to this agreement from Mrs K's credit file;*
- refund the deposit Mrs K paid (if any part of this deposit is made up of funds paid through a dealer contribution, Secure Trust is entitled to retain that proportion of the deposit);*
- refund the payments Mrs K has made, retaining a pro-rata amount to cover the period 20 November to 3 December 2023, when Mrs K had use of the car;*
- upon proof of payments, refund Mrs K for the cost of the diagnostic reports she had done on the car in December 2023 and January 2024;*
- apply 8% simple yearly interest on the refunds/reimbursements, calculated from the date Mrs K made the payments to the date of the refund<sup>†</sup>; and*
- pay Mrs K an additional £200 to compensate her for the trouble and inconvenience caused by being supplied with a car that wasn't of a satisfactory quality (Secure Trust must pay this compensation within 28 days of the date on which we tell them Mrs K*

*accepts my final decision. If they pay later than this date, Secure Trust must also pay 8% simple yearly interest on the compensation from the deadline date for settlement to the date of payment<sup>†</sup>).*

*†If HM Revenue & Customs requires Secure Trust to take off tax from this interest, Secure Trust must give Mrs K a certificate showing how much tax they've taken off if she asks for one.*

## **Responses**

While Mrs K accepted my provisional decision, she said that she only agreed to Secure Trust repairing the car in the first instance, as she felt she was obligated to do so. And she provided additional evidence that she's also tried to reject the car on 6 January 2024, and that she followed this up with the dealership on 24 January 2024.

Secure Trust didn't accept my provisional decision. They provided comments from the finance broker saying that Mrs K had agreed to the car being repaired. They also said that, by agreeing to repairs, Mrs K waived her short-term right to reject, and that rejection was only available to her if the repairs weren't completed within a reasonable timeframe – which they were, given the Christmas and New Year period.

## **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 considered the comments of both parties. I have noted Mrs K's comments about her initial agreement to the repairs, but there was nothing in the phone calls or follow up letter that indicated she was obliged to agree to repairs, and Secure Trust advised her of her right of rejection. However, as Mrs K requested rejection within the short-term right to reject period as defined by the CRA, I don't consider that these comments have any bearing on my final decision.

In their comments, Secure Trust have referred to section 23(2) of the CRA, which states:

*If the consumer requires the trader to repair or replace the goods, the trader must –  
(a) do so within a reasonable time and without significant inconvenience to the consumer*

I'm in agreement that, given the time of year, repairs were completed within a reasonable timescale. And this means that Mrs K doesn't have the right to reject under section 23(2)(a) of the CRA. However, this doesn't mean that Mrs K doesn't have the right to reject under section 22 of the CRA, which I explained in my provisional decision (above). What's more, there is nothing within the CRA that states that, once repairs have been agreed to, the short-term right to reject is irrevocably waived.

As I explained above, when Mrs K agreed to repairs, the short-term right to reject period was paused, and wouldn't restart until the repairs had been completed. Had Mrs K asked for rejection *after* the repairs had been completed, I would have some sympathy with Secure Trust's arguments. But this didn't happen, and Mrs K asked to reject the car both before the repairs had been completed and within the short-term right to reject period. As such, Secure Trust should've cancelled the repairs and allowed rejection – something they failed to do.

Given this, Secure Trust's comments don't alter my view that rejection should've been allowed. And they therefore should now do something to put things right.

## **Putting things right**

For the reasons fully explained within my provisional decision above, Secure Trust should, if they haven't already done so:

- end the agreement with nothing more to pay;
- collect the car at no cost to Mrs K;
- remove any adverse entries relating to this agreement from Mrs K's credit file;
- refund the deposit Mrs K paid (if any part of this deposit is made up of funds paid through a dealer contribution, Secure Trust is entitled to retain that proportion of the deposit);
- refund the payments Mrs K has made, retaining a pro-rata amount to cover the period 20 November to 3 December 2023, when Mrs K had use of the car;
- upon proof of payments, refund Mrs K for the cost of the diagnostic reports she had done on the car in December 2023 and January 2024;
- apply 8% simple yearly interest on the refunds/reimbursements, calculated from the date Mrs K made the payments to the date of the refund<sup>†</sup>; and
- pay Mrs K an additional £200 to compensate her for the trouble and inconvenience caused by being supplied with a car that wasn't of a satisfactory quality (Secure Trust must pay this compensation within 28 days of the date on which we tell them Mrs K accepts my final decision. If they pay later than this date, Secure Trust must also pay 8% simple yearly interest on the compensation from the deadline date for settlement to the date of payment<sup>†</sup>).

<sup>†</sup>If HM Revenue & Customs requires Secure Trust to take off tax from this interest, Secure Trust must give Mrs K a certificate showing how much tax they've taken off if she asks for one.

## **My final decision**

For the reasons explained, I uphold Mrs K's complaint about Secure Trust Bank Plc trading as V12 Vehicle Finance. And they are to follow my directions above.

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

Andrew Burford  
**Ombudsman**