

The complaint

Mr A is unhappy that a car supplied to him under a personal contract purchase agreement with CA Auto Finance UK Ltd ('CA Auto') was of an unsatisfactory quality.

What happened

In June 2023, Mr A was supplied with a used car through a personal contract purchase agreement with CA Auto. He paid an advance payment of £2,500 and the agreement was for £26,895 over 48 months; with 47 monthly payments of £429.32 and a final payment of £14,724. At the time of supply, the car was almost four years old and had done 14,707 miles.

Before the car was supplied to Mr A, the dealer discovered the car had a non-road legal exhaust system fitted, and this was causing an MOT failure based on emissions. The dealer says this was repaired, and the car was supplied with a valid MOT. In June 2024, Mr A took the car for an MOT, and it failed on emissions. The MOT document confirmed this was because of a non-road legal exhaust system.

Mr A complained to CA Auto, but they didn't uphold the complaint. They said the dealer had completed repairs to the car before it was supplied to Mr A, and this had resulted in the car reaching the legal standard to pass an MOT test. So, they didn't think they needed to do anything more. Mr A wasn't happy with this response, and he brought his complaint to the Financial Ombudsman Service for investigation.

Our investigator said there was an issue with the car at the point it was supplied to Mr A, and the dealership took action to try and rectify this. But no specific evidence had been provided to show what the dealership had actually done. However, the latest MOT shows that the car didn't have a road legal exhaust system, and this has resulted in Mr A not being able to use the car. So, the investigator thought that CA Auto should do something to put things right.

The investigator recommended that CA Auto allow Mr A to reject the car, refunding his deposit and the payments he'd made since the MOT failure, as well as paying Mr A £250 compensation for the distress and inconvenience he'd been caused.

CA Auto didn't agree with the investigator's opinion, and they provided some evidence of the work the dealership had done at the time of supply. However, the investigator didn't think this changed their mind, so this matter has been passed to me to decide.

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 A was supplied with a car under a personal contract 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, CA Auto 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 CA Auto can show otherwise. So, if I thought the car was faulty when Mr A 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 CA Auto to put this right.

It's not disputed that, when the car was supplied to Mr A, it had a non-legal exhaust system. I've seen a copy of the dealership's job card which states that both the "CAT" [catalytic convertor] and "GPF" [gasoline particulate filter] were missing. I've also seen that the car failed an emissions test on 6 June 2023 as a result.

I've been provided with handwritten notes from the dealership which confirm that a new CAT had been ordered and subsequently fitted. An emissions test was then successfully passed on 17 June 2023.

As it's not legal to drive a car on British roads when the CAT and GPF have been removed, I'm satisfied this made the car not of a satisfactory quality when it was supplied. I'm also satisfied that the work carried out by the dealership in June 2023 was the single chance of repair allowable under the CRA.

In their final complaint response, CA Auto have confirmed that the dealership fitted a "*Sports Catalyst*" in June 2023, and this is confirmed by the June 2024 MOT failure which confirms "*exhaust catalytic convertor obviously modified (Exhaust Pipe has a stamp stating Motorsport use only.)*" So, I'm satisfied that the CAT fitted by the dealership was more likely than not the same one fitted to the car when it failed the MOT. However, I haven't seen anything to show me that the missing GPF has ever been replaced.

While the work done by the dealership may've been sufficient for the car to pass an MOT in June 2023, it clearly wasn't enough to ensure the emissions remained below the legal limit once the car was used consistently. And not fitting the missing GPF means the car was still supplied in a non-road legal condition.

Section 24(5) of the CRA says "*a consumer who has ... the right to reject may only exercise [this] and may only do so in one of these situations – (a) after one repair or replacement, the goods do not conform to contract.*" Given that the car was supplied with a non-road legal exhaust system, even after the dealership had taken action to try and remedy this, I'm satisfied that the single chance of repair has failed. Therefore, CA Auto need to do something to put things right.

Putting things right

For the reasons stated above, as the single chance of repair has failed, Mr A should now be allowed to reject the car and receive a refund of the deposit he paid.

Mr A was able to use the car until the MOT failure on 6 June 2024, during which time he drove around 19,000 miles. Because of this, I think it's only fair that he pays for this usage. So, I won't be asking CA Auto to refund any of the payments he's made during this period.

However, the car has been off the road and undrivable since 6 June 2024, and Mr A hasn't been supplied with a courtesy car. As such, he was paying for goods he was unable to use. As, for the reasons already stated, I'm satisfied the car was off the road due to it being of an unsatisfactory quality when it was supplied, and as CA Auto failed to keep Mr A mobile; I'm satisfied they should refund the payments he made since the MOT failure.

Finally, I think Mr A should be compensated for the distress and inconvenience he 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 CA Auto pay Mr A an additional £250, to recognise the distress and inconvenience he was caused. 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. So, this is a payment I'm directing CA Auto to make

Therefore, if they haven't already, CA Auto should:

- end the agreement with nothing more to pay;
- collect the car at no cost to Mr A;
- remove any adverse entries relating to this agreement from Mr A's credit file;
- refund the deposit Mr A paid (if any part of this deposit is made up of funds paid through a dealer contribution, CA Auto is entitled to retain that proportion of the deposit);
- refund the payments Mr A has paid between the MOT failure on 6 June 2024 and when the agreement is ended;
- apply 8% simple yearly interest on the refunds, calculated from the date Mr A made the payments to the date of the refund[†]; and
- pay Mr A an additional £250 to compensate him for the trouble and inconvenience caused by being supplied with a car that wasn't of a satisfactory quality (CA Auto must pay this compensation within 28 days of the date on which we tell them Mr A accepts my final decision. If they pay later than this date, CA Auto must also pay 8% simple yearly interest on the compensation from the deadline date for settlement to the date of payment[†]).

[†]If HM Revenue & Customs requires CA Auto to take off tax from this interest, CA Auto must give Mr A a certificate showing how much tax they've taken off if he asks for one.

My final decision

For the reasons explained, I uphold Mr A's complaint about CA Auto Finance UK Ltd. And they are to follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 2 July 2025.

Andrew Burford
Ombudsman