

The complaint

Miss W complains about the quality of a car she acquired using a hire purchase agreement provided by Marsh Finance Limited ('Marsh Finance').

What happened

In June 2023, Miss W entered into a hire purchase agreement with Marsh Limited to acquire a used car, first registered in September 2017. At the time of supply the car had travelled approximately 74,000 miles. The cash price of the car was £9,248 and Miss W contributed £1,000 by way of a part exchange, reducing the overall cash price to £8,248. The total term of the agreement was 60 months.

Miss W says she started to experience issues soon after acquiring the car and so she raised a complaint with Marsh Finance in June 2024 about the electrical and mechanical faults she was experiencing.

In July 2024, Marsh Finance issued its final response and didn't uphold the complaint. In short it said the independent engineer had provided further findings which confirmed the car would've been satisfactory quality at the point of supply.

Miss W referred her complaint to our Service. Our Investigator looked into things and upheld the complaint. In summary she said the car was of unsatisfactory quality at the point of supply and she was persuaded repairs had been carried out and failed. So, amongst other things she recommended Marsh Finance allow rejection of the car with nothing further to pay.

Marsh Finance didn't respond to our Investigator's opinion and so the complaint 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 affected what I think is the right outcome.

The hire purchase agreement entered by Miss W is a regulated consumer credit agreement and this Service is able to consider complaints relating to it. Marsh Finance is also the supplier of the goods under this type of agreement and responsible for a complaint about its quality.

The Consumer Rights Act 2015 (CRA) covers agreements like the one Miss W entered. Because Marsh Finance supplied the car under a hire purchase agreement, there's an implied term that it is of satisfactory quality at the point of supply. Cars are of satisfactory quality if they are of a standard that a reasonable person would find acceptable, taking into

account factors such as the age and mileage of the car and the price paid.

The CRA also says the quality of goods includes the general state and condition, and other things such as its fitness for purpose, appearance and finish, freedom from minor defects and safety can be aspects of the quality of the goods.

Satisfactory quality also covers durability. For cars, this means the components must last a reasonable amount of time. Of course, durability will depend on various factors. In Miss W's case the car was used and covered approximately 74,000 miles and was about six years old when she acquired it. So, I'd have different expectations of it compared to a brand-new car.

The car had travelled a reasonable distance, and it is fair to expect there to be some wear to it because of this use. As with any car, there is an expectation there will be ongoing maintenance and upkeep costs. And with second-hand cars, it is more likely parts will need to be replaced sooner or be worn faster than with a brand-new car. Marsh Finance would not be responsible for anything that was due to normal wear and tear whilst in Miss W's possession. But just because the car was used with some mileage, doesn't mean Marsh Finance had no requirements in relation to providing goods of satisfactory quality.

Having reviewed the evidence, I'm satisfied there was a fault with the car. Miss W has provided her testimony about the electrical faults she encountered. She's said she got in touch with the supplying dealership about this. I'd like to point out that the supplying dealership has gone into liquidation and so there's limited information about the interactions Miss W had with it. Having said that, Miss W has provided email exchanges between them, and I'm satisfied Miss W did raise concerns about the electrical faults.

Miss W says the dealership plugged the car into a diagnostics machine to investigate the electronic issues. I can also see soon after acquiring the car the dealership provided Miss W with a warranty cover for the duration of six months to cover repairs up to the value of £1,000. So, I'm persuaded repairs had been carried out and consider Miss W's testimony plausible.

I can also see that Miss W went on to purchase a further warranty once the initial one came to an end, I see no reason why Miss W would purchase a further warranty if the electrical faults she complained of had not persisted, which further persuades me that any repairs that may have been carried out had not be successful. Further, Miss W went on to arrange for a third-party independent inspection. As part of its findings, the engineer confirmed electrical faults remained and if previous repairs had been carried out, they had failed.

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The car underwent additional repairs in January 2024 and following this Miss W experienced further issues with the car. Notably that it wasn't driving at speeds over 50mph, the mileage at the time of these repairs was around 80,000. Miss W says she continued to liaise with the dealership and waited months for it to reply but heard nothing back.

Miss W arranged for an independent inspection of the vehicle. The inspection was carried out on 8 May 2024 and the mileage had only increased by a few hundred miles. This supports Miss W's comments that she was unable to drive the car at higher speeds or for long distances.

The key findings of the report are as follows:

'The engine started with a notable misfire and a rattle from the timing chain area.

There was an electrical fault as the lane departure, crash warning and vehicle traction control lights were flickering on continuously. The internal lights and dash lights were also flickering.

There is no doubt the vehicle has not been used for some considerable time with this opinion based on fact that the brake discs had evidence of surface corrosion'.

It went on to conclude:

"The external appearance of the vehicle gave no cause for concern; however, the vehicle is unfit for regular use on the public highway at this point as there is a notable misfire present and evidence of timing chain chatter.

On the balance of probabilities, these are interlinked with each other, timing chain chatter is normally caused by a combination of the timing chain stretching and service on the timing chain tensioner becoming lazy in operation.

The warning light displayed on the drivers panel at the time inspection received the vehicle having had a flat battery for some considerable time as trigger multiple fault codes.

...Warning lights displayed on the drivers panel similar to the warning light noted at the time of our inspection, the owner stated that the vehicle has been back to the repairer multiple times to have the electrical fault rectified, there was no obvious repairs having been completed to the electrical system, however the faults were present at the time of inspection and therefore any repairs that were said to have been completed to be considered as failed repairs have that they have not been successful.

Also stated at point of booking that the sales agent stated that they would take an RAC warranty out to rectify the electrical fault, the owner provided a copy of the RAC warranty which was taken out 24 June 2023.

This was dated after the date of purchase and the first RAC with no pay for any repairs as it be considered as a pre-existing condition.

In conclusion based on all the available evidence at time of inspection we do not believe the vehicle was sold in a satisfactory and durable condition and therefore the sales agent should be responsible for any necessary repair costs.

Noting our previous comments that any electrical repairs that was said to have been completed we consider them as failed repairs'.

I would also like to point out that the report said the issue with the timing chain could not be present at the point of sale because it would have been easily identifiable, irrespective of a person's mechanical knowledge. It also said given that the car passed its MOT very soon before Miss W acquired it, the vehicle would have been fit for purpose and road legal at the point of sale.

Following the report, Marsh Finance got in touch with the independent inspector and asked for further clarity on its findings, in particular it was asking for confirmation that the chain rattle would not have been present at the point of sale. The independent inspector replied and said:

'Yes, the issue wouldn't have been present at the point of sale as it would have been

audible, and yes, the vehicle was roadworthy and fit for purpose at the point of sale – the vehicle passed an MOT just prior to the point of sale.

However, what we're looking at here is a durability issue?

The timing chain had an underlying condition at the point of sale which has now developed to the point it is now requiring rectification etc, i.e. it had a limited life expectancy and therefore wasn't durable'.

The report doesn't specifically comment on how long a timing chain could be expected to last in a vehicle with this type of engine. From what I have seen it appears the timing chain should last much longer than the roughly 80,000 miles it had lasted here. General information about timing chains indicates they're typically designed to last the lifetime of the engine, but damage or wear might mean they need replacing earlier and from around 100,000 miles.

Considering all of this information, I think this indicates what could be expected in terms of its durability. In this case it failed prematurely, as confirmed by the independent expert, so it doesn't appear it was sufficiently durable in this case and the car was most likely not of satisfactory quality when supplied. Therefore, Marsh Finance need to do something to put things right.

Putting things right

I have explained why on balance I think Marsh Finance provided a car which wasn't of satisfactory quality because I'm satisfied the issue which has arisen with the timing chain shows it was not of sufficient durability in the circumstances. Looking at the remedies under the CRA I think Miss M should be allowed to reject the vehicle.

I've explained why I'm persuaded on the balance of probabilities, it's more likely that repairs had been carried out and these repairs failed. In my view, to bring matters to a close, Marsh Finance should arrange to take permanent possession of the car and return Miss W to the position (or as close as practically possible) she was in before being supplied it.

Miss W had use of the car for some months, so it's appropriate she pay for that use. But soon after acquiring the car Miss W experienced electrical faults which I'm satisfied remained throughout the time she has had the vehicle and later had issues with the timing belt. So, I am satisfied the car wasn't performing as it should have, which would've impacted Miss W's use of the car. Because of this I think a 10% refund of the payments made from June 2023 to the date of settlement fairly reflects the impaired use caused by the car not being of satisfactory quality. She should also have any adverse information related to these payments removed from her credit file.

Miss W appears to have incurred some direct costs associated with this matter, the cost of the RAC warranty as well as the independent inspection. So, Marsh Finance should also refund these costs plus interest.

I also consider Marsh Finance should pay Miss W compensation for the distress and inconvenience she was caused. She was supplied with a car which failed when it shouldn't have and has had ongoing impact of that for some time. The Investigator recommended Marsh Finance pay Miss W £350, I consider that a fair sum in the circumstances.

So, Marsh Finance need to put things right and:

- Collect the car at no cost to Miss W and end the agreement ensuring there is nothing

further to pay.

- Refund the customer £219 for the RAC warranty paid in December 2023.
- Refund £200 for the independent inspection subject to Miss W providing suitable evidence of payment.
- Refund the customer's part exchange value of £1,000.
- Pay a 10% refund of all monthly payments, from the date of inception (as directed in my findings above) to cover impaired use of the car because of the inherent quality issues.
- Pay 8% simple yearly interest on all refunded amounts from the date of payments until the date of settlement.
- Pay Miss W £350 compensation to recognise the distress and inconvenience caused.

My final decision

I uphold this complaint and direct Marsh Finance Limited to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 10 July 2025.

Rajvinder Pnaiser
Ombudsman