

## The complaint

Miss R complains that a car that was supplied to her under a hire purchase agreement with First Response Finance Limited wasn't of satisfactory quality.

## What happened

I issued a provisional decision on this complaint earlier this month in which I described what had happened as follows:

*"A used car was supplied to Miss R under a hire purchase agreement with First Response Finance that she electronically signed in May 2023. The price of the car was £5,990 and Miss R agreed to make 49 monthly payments of £227.79 to First Response Finance.*

*There were issues with the car's alternator in July and August and the dealer replaced the alternator twice. Repairs to the car's oil filter canister, brake discs and pads and suspension kit with bearings were carried out in November 2023. Miss R complained to First Response Finance about issues with the car in April 2024 and, at its request, the car was inspected by a garage later that month and a number of faults with the car were identified. First Response Finance asked the garage to say which of the faults, if any, would have been present when the car was supplied to Miss R.*

*First Response Finance responded to Miss R's complaint in May 2024. It said that the onus was on Miss R to prove that the car was sold with those faults and the evidence didn't show that so it was unable to support her complaint and it was her responsibility to remedy the faults. Miss R wasn't satisfied with its response so complained to this service and she paid for the water pump and brakes to be repaired. The car then passed an MOT test in May 2024.*

*Miss R's complaint was then looked at by one of this service's investigators who, having considered everything, didn't think that First Response Finance had acted fairly. He agreed with the garage's findings that the problems with the car's water pump and leaks from the timing chain cover and sump gasket were present when the car was supplied to Miss R and he thought that the car wasn't of satisfactory quality at that time. He recommended that First Response Finance should: end the agreement and collect the car; refund some specified rentals to cover loss of use of the car and £358.48 for repairs to the water pump (with interest); pay Miss R £250 for any distress or inconvenience that's been caused; and remove any adverse information from Miss R's credit file in relation to the agreement.*

*First Response Finance didn't accept the investigator's recommendation and has asked for this complaint to be considered by an ombudsman. It says that it was the opinion of the garage that some of the issues were present at the point of sale but it hasn't been provided with any science or explanation behind it and the opinions were also made using Miss R's testimony, combined with its findings, which isn't an impartial view. It also says that if there were issues with leaking at the point of sale,*

*they would have become apparent much sooner and would have been identified in the numerous other inspections that had taken place. It says that Miss R had the car for almost a year before these issues were identified, and she had been able to cover 7,000 miles which she wouldn't have been able to do if the items required urgent repair.*

*Miss R voluntarily terminated the agreement in August 2024 and the car was collected from her. The total balance outstanding from Miss R after the voluntary termination was £4,441.91 and First Response Finance has provided an account statement which shows that that amount remains outstanding”.*

## **Provisional decision**

I set out my provisional findings in that provisional decision. I said:

*“First Response Finance, as the supplier of the car, was responsible for ensuring that it was of satisfactory quality when it was supplied to Miss R. Whether or not it was of satisfactory quality at that time will depend on a number of factors, including the age and mileage of the car and the price that was paid for it. The car that was supplied to Miss R was more than eleven years old, had been driven for 89,617 miles and had a price of £5,990. Satisfactory quality also covers durability which means that the components within the car must be durable and last a reasonable amount of time – but exactly how long that time is will depend on a number of factors.*

*There were issues with the car's alternator and the dealer replaced the alternator for the second time in August 2023. Repairs to other issues with the car were carried out in November 2023. Miss R says that there were ongoing issues with the water pump and she'd had to regularly top up the water since the car was supplied to her but that had increased to topping it up after every use. She complained to First Response Finance in April 2024 and, at its request, the car was inspected by a garage later that month and a number of faults with the car were identified. First Response Finance asked the garage to say which of the faults, if any, would have been present when the car was supplied to Miss R.*

*It said that the water pump issue, the timing chain cover leaking oil and the sump gasket leaking oil would have been present when the car was supplied to Miss R. The water pump (and some issues with the car's brakes) were then repaired and the car passed an MOT test in May 2024. I understand that the total cost of the repairs to the water pump was £358.48. The car had passed an MOT test in May 2023, before it was supplied to Miss R, and its mileage was recorded as 89,617 miles. The mileage at the time of the May 2024 MOT test was 97,410 miles so Miss R had been able to use the car to drive more than 7,700 miles and the car was then collected from her on 27 August 2024 after she voluntarily terminated the agreement.*

*First Response Finance says that it was the opinion of the garage that some of the issues were present at the point of sale but it hasn't been provided with any science or explanation behind it and the opinions were also made using Miss R's testimony, combined with its findings, which isn't an impartial view. But the result of the garage's inspection is the only mechanical report that I've seen about the car. First Response Finance didn't arrange for the car to be inspected by an independent expert after the investigator's recommendation and it hasn't provided any other mechanical evidence about the car even though it collected the car from Miss R in August 2024 and then sold it at auction.*

*The garage's inspection is the best evidence about the faults with the car that is*

*available and, in the absence of any other diagnostic evidence about the car, I consider that it's fair and reasonable for me to use that evidence in reaching my decision. I've considered First Response Finance's comments about the car and the garage's report but I consider it to be more likely than not that there were issues with the car's water pump, timing chain cover and sump gasket when the car was supplied to Miss R and that those issues caused the car not to have been of satisfactory quality at that time. I also note that the alternator was replaced twice between June and August 2023 and that there were further repairs to the car in November 2023.*

*I find that it would be fair and reasonable in these circumstances for First Response Finance to rework Miss R's account to show that she rejected the car on 27 August 2024 when it was collected from her and she voluntarily terminated the agreement. I understand that Miss R wasn't able to use the car for three weeks in July 2023 when the dealer was repairing the alternator and for 24 days in April and May 2024 when the water pump was being repaired. Between May 2023, when the car was supplied to her, and the MOT test in May 2024 the car was driven for more than 7,700 miles and I've seen no reason why Miss R wasn't able to use the car until it was collected from her. I consider that First Response Finance is entitled to keep any monthly payments that Miss R has made for the period up to the time that the car was collected from her as payment for the use that she's had from the car but that it should refund to her the monthly periods for those periods when she was unable to use the car, with interest.*

*The investigator recommended that First Response Finance should refund Miss R £358.48 for repairs to the water pump. I find that it would be fair and reasonable for First Response Finance to pay £358.48 to Miss R to reimburse her for those costs and that it should pay interest on that amount.*

*These events have clearly caused distress and inconvenience for Miss R and the investigator recommended that First Response Finance should pay £250 to Miss R to compensate her for the distress and inconvenience caused. I consider that to be fair and reasonable.*

*The car was collected from Miss R in August 2024 after she'd voluntarily terminated the agreement. I consider that the total of any monthly payments that were due under the hire purchase agreement for the period up to 27 August 2024 but which weren't paid by Miss R should be deducted from the payments to be made to Miss R under this decision. If that leaves an amount still owing by Miss R, I consider that she should pay that amount to First Response Finance under an affordable repayment arrangement. When there is no further amount owed by Miss R, I consider that it would be fair and reasonable for First Response Finance to remove any information about the hire purchase agreement from Miss R's credit file".*

Subject to any further comments or evidence that I received from Miss R and First Response Finance, my provisional decision was that I intended to uphold this complaint. Miss R has accepted my provisional decision but has asked whether she's expected to pay the remaining balance for the car. First Response Finance says that it didn't arrange a further inspection as it wasn't its liability to do so and the report provided by Miss R wasn't comprehensive or impartial and goes against what it knows to be true about how cars behave. It says that a car wouldn't have driven for over 7,000 miles with a faulty water pump and there's no evidence that Miss R was topping up the car with water from inception but she was in regular contact with it about her agreement before she reported a fault and failed to mention that at all. It says that, on the balance of probability, the evidence it has doesn't support that claim and her verbal testimony has been given quite a bit of weight. It

acknowledges that the alternator was repaired early into the agreement, but it says that that issue was resolved and there's no indication that it wasn't unsuccessful and the November 2023 repairs were also wear and tear items.

### **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.

Miss R complained to First Response Finance in April 2024 about some issues with the car and, at its request, she arranged for the car to be inspected by a garage later that month. The garage identified a number of faults with the car and First Response Finance asked the garage to say which of the faults, if any, would have been present when the car was supplied to Miss R. The garage said that the water pump issue, the timing chain cover leaking oil and the sump gasket leaking oil would have been present when the car was supplied to Miss R.

I said in my provisional decision that the garage's inspection is the best evidence about the faults with the car that is available and that, in the absence of any other diagnostic evidence about the car, I considered that it was fair and reasonable for me to use that evidence in reaching my decision. I also said that I'd considered First Response Finance's comments about the car and the garage's report but I considered it to be more likely than not that there were issues with the car's water pump, timing chain cover and sump gasket when the car was supplied to Miss R and that those issues caused the car not to have been of satisfactory quality at that time.

I've carefully considered First Response Finance's response to my provisional decision, but I'm not persuaded that I should change my provisional decision as I still consider it to be more likely than not that there were issues with the car's water pump, timing chain cover and sump gasket when the car was supplied to Miss R and that those issues caused the car not to have been of satisfactory quality at that time.

First Response Finance says that it didn't arrange a further inspection as it wasn't its liability to do so. I accept that First Response Finance wasn't required to arrange a further inspection of the car, but if it had arranged for the car to be inspected by an independent expert after it had received details of the garage's inspection or after it had received the investigator's recommendation or after the car was collected from Miss R, the independent expert's report may have provided enough evidence to show that the car was of satisfactory quality when it was supplied to Miss R. But it didn't arrange a further inspection of the car so hasn't been able to provide an inspection report showing that and I'm not persuaded that there's enough evidence to show that the car was of satisfactory quality at that time.

### **Putting things right**

I find that it would be fair and reasonable in these circumstances for First Response Finance to take the actions described in my provisional decision and as also set out below. In response to my provisional decision, Miss R has asked whether she's expected to pay the remaining balance for the car. The only payments for which she's responsible are any monthly payments that were due under the hire purchase agreement for the period up to 27 August 2024 but which weren't paid by her – and I've said that the total of any such payments should be deducted from the payments to be made to her under this decision so she shouldn't have to make any payment to First Response Finance (unless the total of the monthly payments that were due under the hire purchase agreement for the period up to 27 August 2024 but which weren't paid by her is larger than the total of the amounts that I've ordered First Response Finance to refund, reimburse and pay to her at points 2 to 5 below).

## **My final decision**

My decision is that I uphold Miss R's complaint and order First Response Finance Limited to:

1. Rework Miss R's account to show that she rejected the car on 27 August 2024.
2. Refund to Miss R the monthly payments that she's made under the hire purchase agreement for the periods described in my provisional decision.
3. Pay £358.48 to Miss R to reimburse her for the cost of the repairs to the water pump.
4. Pay interest on the amounts at 2 and 3 above at an annual rate of 8% simple from the date of each payment to the date of settlement.
5. Pay £250 to Miss R to compensate her for the distress and inconvenience that she's been caused.
6. When there is no further amount owed by Miss R, remove any information about the hire purchase agreement from Miss R's credit file.

But the total of any monthly payments that were due under the hire purchase agreement for the period up to 27 August 2024 but which weren't paid by Miss R should be deducted from the payments to be made to Miss R under this decision.

HM Revenue & Customs requires First Response Finance to deduct tax from the interest payment referred to above. First Response Finance must give Miss R a certificate showing how much tax it's deducted if she asks it for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 22 April 2025.

Jarrold Hastings  
**Ombudsman**