

The complaint

Mr D complains about the quality of a car leased to him by CA AUTO FINANCE UK LTD ('CF').

What happened

The parties are familiar with the background details of this complaint – so I will briefly summarise them here. It reflects my role resolving disputes with minimum formality.

Mr D took a hire agreement for a sports car with CF in December 2024 with an initial rental of £6,000 and 23 remaining rentals of around £900 a month. He contacted CF soon after and said he had problems with the car. In summary, Mr D says the key issue is the car suddenly malfunctioned on the motorway and became unresponsive which made him conclude it was unsafe. Mr D also brought up some other issues, like:

- The car is overheating and has unacceptable noises (like wind and whistling) when driving;
- there are electrical problems; and
- there is condensation in the headlights.

Mr D said he lost confidence in the car and wanted to reject it and terminate his hire agreement with no further liability.

CF did not agree to rejection of the car. It said there was insufficient evidence to show the car was faulty. Our investigator agreed.

Mr D has asked for the matter to be considered by an ombudsman 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.

While I might not comment on everything (only what I consider key) this is not meant as a discourtesy to either party – it reflects my role resolving disputes with minimum formality.

In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

The agreement in this case is a regulated consumer hire agreement. As such, this service is able to consider complaints relating to it. CF is also the supplier of the goods under this type of agreement, and responsible for a complaint about their quality.

The Consumer Rights Act 2015 is of particular relevance to this complaint. It says that

under a contract to supply goods, there is an implied term that “the quality of the goods is satisfactory”.

The Consumer Rights Act 2015 says the quality of goods are satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, the price and all the other relevant circumstances. So it seems likely that in a case involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage at the time of sale and the vehicle's history.

The Consumer Rights Act 2015 ('CRA from now on') says the quality of the goods includes their general state and condition and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability can be aspects of the quality of goods.

CF supplied Mr D with a brand new car worth about £85,000. I think it's fair to say that a reasonable person would expect the level of quality to be higher than a second-hand, more road-worn car. And that it could be used – free from defects – for a considerable period of time.

From what Mr D says the main problem with the car started around two weeks after he got it, when he says it went into 'limp mode' on the motorway and it 'locked at a certain speed'. He appears to have reported this to the dealer and CF at the start of January 2025 where he says he wants to reject the car via his short-term right to reject under the CRA.

I am sorry to hear about the experience Mr D describes. And the other issues he says are wrong with the car. I acknowledge that with a brand new car like this you wouldn't be expecting faults at such an early stage. I am not dismissing Mr D's testimony and understand his point that faults can be intermittent. However, the key issue here is there just isn't persuasive evidence of any faults with the car. I say this noting the dealer instructed a technician to investigate the allegations and found:

- No fault codes in relation to the incident Mr D described; and
- normal operation of the car in respect of other aspects including heat generation and noise and operation of wing mirrors.

The technician's assessment seems credible and explains why certain things are normal (such as generation of heat from the trunk of the car being because it is a rear engine car or wind noise due to the light weight and 'pillarless' doors of the car).

I also note that one of Mr D's complaint points is that he hasn't had any warning lights on the screen of the car to help him understand any issues. However, the absence of warning lights would also reinforce a finding that the car was not faulting.

Ultimately, the findings of the technician either don't show particular faults – or are able to explain certain issues as normal operation. Which means the car would not be deemed unsatisfactory under the CRA and CF would not be fairly obligated to provide a remedy.

In making my finding I note Mr D raised the issues with the car very shortly after he got it. And I acknowledge under the CRA within the first six months from delivery the '*burden of proof*' is on the supplier to show any non-conformity of the goods was not present at the point of sale. However, I also note:

- Mr D still has to first show there are faults with the car – even if the presumption is then that they were present at the point of sale. And while I accept evidence of a fault

does not have to be in the form of a diagnostic – I don't think the testimony which he provided CF is sufficient in itself to show the car is faulty here;

- the investigation carried out by the dealer arguably shows the car is of satisfactory quality in any event; and
- this burden of proof on the supplier does not apply to the exercise of the short term right to reject (the remedy Mr D wants) either.

In summary, I am very sorry to hear Mr D is unhappy with the car and about the impact of the hire agreement on his health. But all things considered, in the circumstances I don't think CF needed to fairly do anything more to show the car was of satisfactory quality. Nor do I conclude it was acting unfairly in not taking the car back based on the information available to it at the time.

I know Mr D is spending a lot on the car in monthly rentals – and has underlined that problems can be intermittent. But ultimately my decision here does not mean Mr D can't look to obtain persuasive evidence of faults that might occur going forward and present these to CF.

For completeness, I note in his complaint to CF Mr D referred to his wish to give the car back in the claimed 'cooling off period'. But he wasn't very specific about what he meant beyond this – simply referring to 'consumer protection laws'. Which appeared to be any rights he has under the CRA in respect of the quality of the car – which I have dealt with above. I also note that the hire agreement is very clear that there is no right to cancel. However, since our investigator's view I note Mr D has recently made some specific allegations about the failure of CF (or the dealer acting as broker) to provide certain pre contractual materials as obliged by law – and the impact of this on his agreement. Mr D has not articulated this to CF previously, and it is essentially a different complaint to this one, so is not something I will be dealing with here. However, Mr D is free to complain about this separately if he wishes to.

I am sorry my decision is not what Mr D wants. However, he is free to reject it, and may decide to pursue CF by more formal means (such as court) if he wishes.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 30 June 2025.

Mark Lancod
Ombudsman