DRN-5588358

The complaint

Mr W complains about a car supplied under a hire purchase agreement, provided by Lendable Ltd trading as Autolend ('Autolend').

What happened

Around July 2024 Mr W acquired a used car under a hire purchase agreement with Autolend. The car is listed with a cash price of £12,185 on the hire purchase agreement, was around eight and a half years old and had covered around 54,270 miles. Mr W paid a deposit of £200 and was due to make repayments of £313.53 a month for 60 months.

Unfortunately, Mr W says the car developed issues. He says around two months after he acquired it, the car "*shut down*" without warning while driving on the motorway and he was in fear for his life.

Mr W says the car was recovered to his house. He then says the supplying dealer told him to take it to a garage of his choice as there was nothing it could do to help. The car was recovered to a garage I'll refer to as "J". J determined the car had suffered engine failure due to a lack of coolant and required a replacement engine. J later provided a quote to replace the engine of £6,575.

Mr W was unhappy and raised a complaint to Autolend. An independent inspection was then carried out on 17 October 2024 that noted the mileage of the car as 58,404. This said, in summary, that the car had a seized engine due to overheating. It said this was due to a loss of coolant from a pipe with an incorrect clip on.

In November 2024 Autolend sent Mr W its final response to the complaint. It said, in summary, that the supplying dealer said Mr W had caused drive on damage by not raising or inspecting a coolant fault earlier. And it said the independent inspection had concluded the supplying dealer would only be responsible to cover the following items and repairs:

"Clips for Cooling System - £3.59 + VAT

Gasket - £39.99 + VAT

Head Skimming – £199 + VAT

Labour - £180

Total - £507"

It said any additional costs needed to be covered by Mr W as it was considered to be caused by *"drive-on damage outside of reasonable consequential damage".* And it said it would not allow Mr W to reject the car.

Mr W remained unhappy and referred the complaint to our service. He said, in summary, that he thought Autolend were trying to put the blame on him when the supplying dealer knew that the car had issues before he acquired it.

Our investigator asked both parties for some further information.

She asked Mr W to provide detailed explanations of what happened when the car broke down, details of maintenance of the car and for any breakdown reports.

Mr W responded and said there were no warning lights on the dashboard before the engine failed. He said the car was pulled over onto the hard shoulder of the motorway where it was recovered from. He explained he was not given a copy of a breakdown report.

She asked Autolend to provide any evidence it had to show when warning lights first showed on the car, for any evidence the coolant was low before the breakdown and for any evidence showing Mr W carried on driving the car when he ought to have known to have stopped.

Autolend responded and explained it had relied on the independent inspection report for the above information.

Our investigator issued a view and upheld the complaint. She said, in summary, that she thought the car wasn't of satisfactory quality when supplied. She said that due to the delays in repairing the car, Mr W should now be allowed to reject it. She said Mr W should get back all payments made to the agreement since 26 September 2024. She said Mr W should get back any travel expenses incurred since that point, on production of receipts. And she said Autolend should pay Mr W £350 to reflect what happened.

Autolend disagreed. It said the "*internal warning light was operational in the fullest".* It said that because of Mr W, a quick and easy repair had become catastrophic damage.

Our investigator explained she hadn't seen enough to persuade her warning lights appeared before the car broke down. And so she hadn't seen enough to say Mr W was responsible for any drive on damage.

Mr W got in touch and said he agreed but he was concerned about storage costs from J. He said J wouldn't release the car to him to move it without paying the charges.

Autolend continued to disagree. As Autolend remained unhappy, the complaint was passed to me to decide.

I sent Mr W and Autolend a provisional decision on 1 May 2025. My findings from this decision were as follows:

Mr W complains about a car supplied under a hire purchase agreement. Entering into regulated consumer credit contracts such as this as a lender is a regulated activity, so I'm satisfied I can consider Mr W's complaint against Autolend.

When considering what's fair and reasonable, I take into account relevant law, guidance and regulations. The Consumer Rights Act 2015 ('CRA') is relevant to this complaint. This says, in summary, that under a contract to supply goods, the supplier – Autolend here – needed to make sure the goods were of 'satisfactory quality'.

Satisfactory quality is what a reasonable person would expect, taking into account any relevant factors. I'm satisfied a court would consider relevant factors, amongst others, to include the car's age, price, mileage and description.

So, in this case I'll consider that the car was used and had covered around 54,000 miles. This means I think a reasonable person would not have the same expectations as they would for a newer, less road worn car. But, I still think they would expect it to be in

reasonable condition and would expect trouble free motoring for some time.

In this particular case, all parties agree that Mr W's car developed a fault. And everyone also seems to agree this fault was present or developing at the point of supply which meant the car was of unsatisfactory quality. But, I think it's worth covering these points off as there are still some connected contentious issues that I'll come on to later.

I'll firstly consider whether Mr W's car developed a fault.

I've seen a copy of a letter sent from J. This is dated 26 September 2024 and states:

"we regret to inform you that the engine has suffered significant damage due to severe overheating……. to the point of seizure."

I've seen a copy of the independent report from 17 October 2024. This states:

"a manual attempt to turn the engine using a socket on the crankshaft pulley and a long bar confirmed that the engine was seized"

So, I find Mr W's car has unfortunately suffered a seized engine. I've then gone on to consider the reason why this happened. The independent report goes into some detail here:

"A visual inspection confirmed coolant had been discharged from the cooling system expansion bottle, resulting in contamination and staining of the adjacent areas."

"A pressure test of the cooling system confirmed a leak from the pipe of the junction for the outlets to the engine oil cooler and EGR cooler. The oil cooler hose had been subject to a previous repair and fitted with a screw type jubilee clip rather than the standard (car's manufacturer name) fitment, which is an expandable clip."

"Pipes and wiring in the area were incorrectly routed and secured. A securing bolt was missing from a bracket and cable ties had been used to 'secure' wiring and pipes."

"The engine was in a seized state with other findings confirming that this situation has been reached by the vehicle being operated with insufficient coolant due to a leak from the oil cooler coolant delivery point which due to an incorrectly specified and fitted clip has caused the pipe to expand and contract over multiple cycles until the pipe has chaffed through against the clip, causing a loss of coolant. Continued use has caused the cylinder head gasket to fail, discharging coolant from the expansion tank."

"In summary the engine has suffered a catastrophic internal seizure failure, caused by a loss of coolant from a hose which has been damaged due to an incorrect previous repair."

J also seems to agree with the overall conclusion reached:

"The primary cause of the issue appears to be the absence of coolant in the system, which led to the engine overheating"

This seems quite clear to me. In summary, I'm satisfied the engine suffered failure due to overheating. This was caused by a loss of coolant, which in turn was caused by an incorrect clip being fitted to the coolant system. It follows the root cause of this situation seems to be the fitting of the clip. So, I've gone on to consider when this likely happened. The independent report draws clear conclusions here:

"It is reasonable to conclude that whilst the engine would not have been overheating at the

point of sale , the conditions which led to the failure of the hose would have been present at that time."

"We do consider the initiating hose condition and clip would've been present the point of sale"

"We anticipate the hose clip condition would've been present the point of sale and would have to be considered by the selling agent"

I haven't seen evidence to suggest what the report says on this point is incorrect. Given the time Mr W had the car and what he said, along with the report, I'm satisfied the issue with the clip that led to the failure was present when Mr W got the car. And I'm satisfied a reasonable person would consider that this made the car of unsatisfactory quality, given the serious nature of the later faults this caused.

So far in my conclusions, I don't think there are many details about the above that either Autolend or Mr W disagree with. However, at this point the stance of both parties and their versions of events differ significantly.

Autolend has set out that while it accepts the above, it believes the warning system on the car would've notified Mr W of the loss of coolant and of the overheating before the breakdown. It believes the majority of the damage has been caused by Mr W driving the car in this state leading to the failure. Mr W said, in summary, that the breakdown occurred without any warning at all.

So, it seems to me that the crux of this complaint is whether Mr W continued to drive the car when it was displaying warning lights and messages, contributing to the engine failure, or not.

Autolend has said it has relied on the contents of the independent report to draw this conclusion. So, I've carefully considered this.

The report states:

"There is also no doubt, in our opinion, the vehicle has been operated at temperatures outside its design limits due to a lack of coolant present and whilst we have no information regarding the driving environment at the time of failure it is reasonable to suggest that the extent of the damage may have been reduced had the vehicle been stopped and referred to a breakdown service or a competent repairer prior to the ultimate failure."

"the consequential damage does indicate overheating damage had developed which should be avoidable if appropriate action is taken within the manufacturer's warning devices tolerances."

"The vehicle is fitted with a coolant gauge and overheating warning, both of which within the scope of the inspection appeared to be operational."

I've seen a copy of a follow up letter from the independent inspection company dated 1 November 2024. This states:

"If the engine as suggested in the report does need to be replaced, this type of consequential damage is difficult from an engineering perspective to justify. As the vehicles warning systems should have given ample warning of the condition developing to prevent that damage from becoming significant."

So, I can see how Autolend has reached its opinion here. But, Autolend has been very firm in setting out what it believes the evidence shows. In response to the investigator's view it said that the "internal warning light was operational in the fullest". It said the independent report had documented "this warning light was fully operational" and said "it is without a doubt that the warning was displayed". But, I disagree things are this clear cut.

I've very carefully thought about the details from the report above. But I've noted this specifically states "we have no information regarding the driving environment at the time of failure".

I'm also satisfied the report did not say the warning lights or systems were fully operational. It said they "appeared to be operational", "within the scope of the inspection".

I've thought about this. Logically, I don't believe a test of the full operation of the warning system could be carried out with the car being in the state it was. The engine couldn't have been made to overheat, or even as far as I know for the temperature to rise or fluctuate, as it couldn't be started. And the report doesn't explain any testing was carried out on the coolant warning system either.

I accept J said that the coolant light was working, but there are limits to what this shows.

I've also considered that the follow up letter from the inspection was not written by the author of the original report as they were unavailable. Presumably, this means who wrote this letter never actually saw or inspected Mr W's car. So, I need to bear this in mind when considering how much weight to put on this. That being said, I also noted this letter says the system "should have" given ample warning, not "did".

I've noted that Autolend, J, nor the independent report confirms or even suggests a specific or estimated point in time at which the warning system or lights would've displayed.

And of course, I need to also carefully consider what Mr W said. He confirmed the car gave no warnings and suddenly broke down on the motorway. And I need to think about how likely it is that Mr W simply ignored warning messages and lights on what was, to him, still a reasonably new car.

Having thought about this, I should explain to both parties that I am not making a finding that the warning systems didn't work. However, I am satisfied that the evidence and testimony does not confirm that they were fully operational or that lights or warnings were displayed before the breakdown.

I've also had in mind that nowhere in the evidence is there testimony to explain how quickly the coolant leaked or was lost. If this happened suddenly, I think it's possible the systems only gave a very late warning to Mr W on the motorway before anything could be done about it.

So, there are several explanations for what could've happened here. These could include that, as Autolend believes, the coolant gradually leaked, Mr W's car displayed warning messages about the coolant level, followed by warning messages about the overheating, which he ignored and continued to drive the car. Or, the coolant could've gradually leaked, but Mr W's car didn't display warning messages as it should have, giving him no warning of the issue. Or, the coolant could've suddenly been lost on the motorway, giving little to no warning to Mr W due to the speed of the issues developing. Or, there may be another separate explanation for what happened.

This case and issue are finely balanced. But thinking about this, I don't need to make a

specific finding about exactly what I think happened. It's enough here to say, that after very carefully considering all of the information, I'm not persuaded that the most likely explanation out of those possibilities is that Mr W's car slowly leaked coolant then displayed, presumably increasingly prominently, warning messages over some time, all of which he ignored and instead continued to drive the car without stopping or reporting anything.

It follows this that I'm satisfied Mr W didn't most likely cause the additional damage set out by Autolend. So, I find Autolend is responsible for all of the car's current faults.

In summary, I'm satisfied that the car wasn't of satisfactory quality when supplied to Mr W due to the issues with the clip and hose. And I haven't seen enough to persuade me Mr W caused the later engine failure by driving the car when it displayed warnings.

I now need to consider what Autolend needs to do to put things right. Both parties had initially discussed, at least in part, repairs to the car. But, I've had in mind the length of time this situation has now gone on for. The CRA 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 satisfied at the current time that a repair would not be in a reasonable time. And I'm satisfied Mr W has already suffered significant inconvenience.

I've also had in mind how long the car has now sat unused. I'm conscious further issues may have developed, as well as considering it already needed a replacement engine. The CRA also states:

"The consumer cannot require the trader to repair or replace the goods if that remedy (the repair or the replacement)—

(b)is disproportionate compared to the other of those remedies."

I'm concerned about the potential costs involved here and what the car will be worth. Bearing the above in mind, I find repair would not be a suitable remedy.

Mr W has requested a replacement car. But his car is used. It wouldn't be practical to require Autolend to find an exact replacement of the same model, age, mileage, specification etc. So, I also find replacement wouldn't be a suitable way to put things right.

That means of the available remedies under the CRA I'm satisfied Mr W has the right to reject the car.

I've also had in mind Mr W has been without the car for a significant period. And I think it must have been very upsetting for the car to develop the issues it did and breakdown on the motorway. I agree with our investigator that Autolend should pay Mr W £350 to reflect this.

Mr W has been without the car since 26 September 2024, when it was taken to J. So, Autolend should reimburse all repayments made to the agreement past this point.

I do differ in part to what our investigator recommended to put things right here. She said Mr W should also be reimbursed any travel expenses he provided receipts for past this date. But, I've had in mind he is already getting the monthly payments reimbursed as above. Giving him back travel costs on top of this would be putting him in a better position than he would've been if nothing had gone wrong. So, I find Autolend does not need to reimburse

him these costs.

There are storage costs potentially being charged by J. I've had in mind that there is an argument to be made that Mr W has not mitigated his losses here. But, I think it was reasonable, based on what he said, for the car to be taken there. And I appreciate Mr W has been stuck between a rock and a hard place considering this – J was increasing these costs but also wouldn't release the car without payment which, given what Mr W has said about his finances must have, at the least, been very difficult to make.

That being said, I'm satisfied that had the car supplied been of satisfactory quality, Mr W wouldn't have incurred these costs. So, I find Autolend are responsible for these. It might be prudent for it to contact J and negotiate a settlement.

Mr W responded and said he'd now paid the storage costs by borrowing money from family, as he was worried about these increasing further. He sent through an invoice from 13 March 2025 for £1,100.

Autolend responded and said it accepted the decision and the suggested settlement. I replied and explained Mr W had now paid the storage charges, and I thought it was reasonable for Autolend to reimburse him. Autolend then said it wasn't reasonable for it to be liable for these costs. And it pointed to its terms and conditions which said Mr W needed to keep the car in his possession.

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 what Autolend said about the storage costs. But I still think what I explained about this in my provisional decision is fair and reasonable. And what Autolend noted in its terms and conditions doesn't change my opinion here.

Having thought about all of the other information in relation the case again, I still think it should be upheld for the reasons I explained in my provisional decision and set out above.

My final decision

My final decision is that I uphold this complaint. I instruct Lendable Ltd trading as Autolend to put things right by doing the following:

- End the agreement with nothing further to pay
- Collect the car at no cost to Mr W
- Reimburse Mr W's deposit of £200*
- Reimburse all repayments to the agreement post 26 September 2024*
- Reimburse Mr W £1,100 for storage costs from 13 March 2025*
- Pay Mr W £350 to reflect the distress and inconvenience caused
- Remove any adverse information from Mr W's credit file in relation to this agreement

*These amounts should have 8% simple yearly interest added from the time of payment to the time of reimbursement. If Autolend considers that it's required by HM Revenue & Customs to withhold income tax from the interest, it should tell Mr W how much it's taken off.

It should also give Mr W a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue and Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 25 June 2025.

John Bower
Ombudsman