DRN-5621849

The complaint

Miss O complains about a car supplied under a hire purchase agreement, provided by Advantage Finance Ltd ('AFL').

What happened

Around May 2024 Miss O acquired a used car under a hire purchase agreement with AFL.

The car is listed with a cash price of £6,995 on the agreement, was around six years old and AFL said it had covered around 52,886 miles. Miss O paid no deposit and was due to make repayments of £250.25 a month for 59 months followed by a single repayment of £450.25.

Unfortunately, Miss O says the car developed issues. She said the horn didn't work when she collected it. And she said the day after this she noticed it had a misfire. The car was returned to the dealer for repairs. But, Miss O said further issues later appeared around August 2024 with the exhaust.

At the end of August 2024 Miss O complained to AFL about the above. She also raised that the car had poor service history. And she said it was missing things sold with the car such as the puncture repair kit.

In September 2024 an independent inspection was carried out on the car. The mileage was noted as 53,131. This said, in summary, that the car had a 'rough idle' and noted issues with the exhaust system.

Following this the car was returned to the dealer for repairs.

In October 2024 a further independent inspection was carried out. The mileage was noted as 53,578. This said, in summary, that a repair had been carried out to the exhaust and while this had improved things, there was still a rattle and the exhaust needed aligning.

Further repairs were then carried out on 11 November 2024.

AFL issued its final response on the same day. In summary, this acknowledged the issues with the exhaust. It said the report from October 2024 said a 'slight adjustment' was required and so this wasn't to be considered a 'failed repair'. It said following the recent repairs, the car was in full working order and so no other action was required.

Miss O remained unhappy and referred the complaint to our service. She said she wanted to reject the car.

In December 2024 Miss O told our service that an oil leak had got worse and she couldn't drive the car. Miss O then said it went to a garage for a repair to the oil sump in January 2025. But she said at the end of January 2025 it had further issues with the exhaust rattling.

Miss O told our service she doesn't drive far in the car due to the worry of it breaking down. She showed a picture of the odometer at this point showing 54,214 miles.

Our investigator issued a view and upheld the complaint. In summary, he said he didn't think the car was of satisfactory quality when supplied. He didn't think the repair attempts had been successful. And so he said he thought Miss O should be able to reject the car.

Our investigator said Miss O should be allowed to reject the car, that she should get back all but two repayments towards the agreement, that AFL should cover the cost of an invoice from a garage when work was completed in the future and that it should pay her £150 to reflect the distress and inconvenience caused.

AFL responded and said it didn't agree. It said Miss O didn't have a right to reject the car because the second report found the issues weren't due to a 'failed repair'. And it said Miss O and a family member had unfairly left negative reviews about the dealer online.

Miss O responded and said she accepted the outcome. She also said a garage had recently tightened part of the exhaust but hadn't charged her for it.

As AFL remained unhappy, the complaint was passed to me to decide.

I sent AFL and Miss O a provisional decision on 13 May 2025. My findings from this decision were as follows:

Firstly, I'd like to explain to both parties that I might not comment on every piece of evidence nor point raised. Where I haven't mentioned something, this doesn't mean I haven't thought about it. I'd like to reassure Miss O and AFL that I've carefully considered all of the evidence. But I'm going to focus my decision on what I think are the key facts and the crux of the complaint. This reflects the informal nature of our service.

Miss O 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 Miss O's complaint against AFL.

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 – AFL 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, had covered around 53,000 miles and cost around £7,000. This means I think a reasonable person would not have the same expectations as for a newer, less road worn model. But, I still think they would expect it to be free from anything other than relatively minor defects and would expect trouble free motoring for some time.

What I need to consider in this case is whether I think Miss O's car was of satisfactory quality or not. I don't think this, mostly, is a contentious point in this case, but I still think it's worth covering. What is in dispute, and seems to me to be the crux of the complaint, is whether Miss O has the right to reject the car, or whether AFL have already done enough to put things right. So I'll go on to address this.

Our investigator and AFL both focused on the issues starting from August 2024. But, I think it's important to note that I'm satisfied Miss O's car already showed faults and had been repaired earlier than this. It doesn't seem in dispute that only shortly after Miss O got the car,

it had issues with the horn not working and a misfire.

This was noted by AFL in its contact notes:

"advise dhorn (sic) doesn't work and mis fire on idle in engine, advised customer her rights under CRA2015. Dealer collecting vehicle tomorrow for repair"

And more recently AFL noted in response to the investigator's view:

"despite calling AFL on 29.05.2024 to advise that there was an issue with the horn and the engine misfire when in Idle mode, the dealership were forthcoming with collecting the vehicle from her and completing repair – this was arranged on 30.05.2024."

The repairs were also mentioned in the first report from September 2024:

"spark plugs and coil pack were reportedly fitted"

Given how soon these issues appeared, I think it's likely they were present or developing at the point of supply. I don't think a reasonable person would've expected these issues to be present. It follows that I find the car wasn't of satisfactory quality due to these issues.

It appears that these issues were repaired, or in the case of the misfire, at least improved.

The next issues arose in August 2024. From the independent report from September 2024:

"Returning from the drive, exhaust inspection revealed significant age and corrosion rendering the entire system somewhat fragile. The forward areas of the exhaust system were affected failure of the flexible section, with gas leakage confirmed here"

"Closer inspection revealed a clamp to be completely missing from the exhaust/silencer joint."

"It is confirmed that the car was sold with an exhaust system that leaked gas and had exceeded its normal service lifespan. Subsequent exhaust repairs were insufficient to bring the system back to normal serviceable condition."

"The vehicle was not fit for its intended purpose at the time of sale."

So, it seems very clear the exhaust system had a fault at this point and that the author believed this was present or developing at the point of supply. I see no reason to disagree. I also find that a reasonable person would think that this meant the car was of unsatisfactory quality.

It is here where my thinking differs somewhat from our investigator. I say this because I'm satisfied Miss O had a right to reject the car at this point. I'll explain why.

It's important to set out exactly what the CRA explains about the final right to reject. It explains a consumer has the final right to reject if:

"after one repair or one replacement, the goods do not conform to the contract"

Here, "the goods" refers to the car, and I'm satisfied that it is not reasonable to view the car as a collection of different parts. This means when considering later faults, it doesn't matter for the purposes of the CRA if the issues are linked.

It's also important to explain that 'conforming to the contract' here can be taken to mean

being of satisfactory quality, taking into account the relevant factors already noted.

So, thinking about the history here, Miss O's car was supplied with faults in relation to a mis fire and the horn not working that made it of unsatisfactory quality. A repair was carried out, but this did not make the car of satisfactory quality, as it was later noted it also had the issues with the exhaust system. In other words, after one repair the car did not conform to the contract.

I think it's most likely Miss O asked to reject the car when she complained to AFL in August 2024. I say this as AFL's notes from the time state:

"messaged dealer whilst on call asking for an unwind as not happy with veh"

It then appears AFL told Miss O after the first inspection that she only had a right for the car to be repaired:

"as the complaint has been raised outside the 1st 30 days of the agreement there is only a right of repair"

So, it follows that I'm satisfied Miss O had a right to reject the car when the fault occurred with the exhaust and that she exercised this right. AFL denied this.

It's worth explaining that even if the first fault didn't occur, I would also consider that Miss O still had a right to reject the car at the point of the second inspection. I'll explain why.

After the repair to the exhaust following the first inspection, the second inspection still noted issues with it:

"A brief test drive confirmed some signs of rattle…..and the rattle was consistent with exhaust noises."

"It was observed at the forward end of the exhaust, the assembly protruded downward rather more than expected, reducing ground clearance.

At the rear sections of the exhaust, it was found that the exhaust assemblies were displaced slightly toward the nearside. The assembly was not leaking or insecure but was closer to the nearside than normally expected.

As a result of this displacement, the exhaust could be seen to have made contact with the nearside rear spring.

A witness mark was imaged and is presented below. This contact was noted as consistent with the observed exhaust rattle when driving"

"This has led to a reduction in ground clearance and more importantly, actual contact between moving spring and exhaust components.

Left uncorrected, exhaust rattle (as reported and observed) and possible exhaust perforation by abrasion are likely to occur."

"the poor alignment of the fitted components cannot be tolerated and must be corrected in order to realise the benefits of system component replacement.

While the exhaust components are a welcome replacement, they must be correctly aligned for normal service. At this stage, some further efforts to correctly align the exhaust is required before normal operation and lifespan can be acquired."

AFL has explained it believes Miss O didn't have a right to reject at this time because the report noted these issues were not due to a failed repair. The report states:

"Although this could be argued as being a failed repair, however some are relatively minor issue and the exhaust system that requires realignment (sic) therefore this should be classed as an adjustment the continuation of the previous repair (sic)."

With respect to the author of the report, I'm not sure I follow the logic here. However, the key point is to consider what the CRA says. And this doesn't mention an adjustment or whether something is a continuation of a failed repair. As above, it states that Miss O would have a right to reject if, after a repair, the car still wasn't of satisfactory quality.

The descriptions in this second report set out that the car was left in a condition where the exhaust rattled and was misaligned to the point where the issue "cannot be tolerated" and "exhaust rattle… and possible exhaust perforation by abrasion" were likely to occur. I'm satisfied a reasonable person would not think this meant it had been returned to satisfactory quality.

I'm also satisfied that Miss O exercised her right to reject at this point. AFL's system notes, from the time between the first repair to the exhaust and the second, record:

"(Miss O has) had enough of waiting for it. Wnats (sic) it gone not having dealer do it has tried already and failed repairs"

*"We have categorically confirmed with ('Miss O') there are still no requirements to reject the vehicle as **she has repeatedly requested**" (emphasis added by myself).*

So, in summary, I find Miss O had a right to reject the car in August 2024. I'm satisfied she exercised this right. In any event, I also find she had a right to reject the car in October 2024. And I'm again satisfied she exercised this right. Considering this, I find it's still fair and reasonable that she is allowed to now reject the car, given how adamant she has been that she no longer wants it.

I've then gone on to consider what else needs to happen to put things right.

Our investigator found that as Miss O had completed around 2,000 miles in the car, this equalled about two month's use, and so said Miss O should be reimbursed all repayments apart from two. But, I disagree.

Miss O explained she's only used the car for short journeys due to the issues. This could be reflected in the mileage. But I have no evidence of her intended use or what the mileage would've been if there hadn't been issues. And I've noted she wasn't covering high mileages when the car appeared to be working as it should.

That being said, Miss O's car has suffered from various faults. I'm satisfied this means, at times, her use of the car has been quite seriously impaired and this should be reflected in what AFL is entitled to retain from her repayments. I find it reasonable that Miss O should be reimbursed 50% of the repayments between the first issues being raised and repaired, and the same for the later issues with the exhaust.

But, considering the increase in mileage and what she said, I'm satisfied generally speaking that she has had some use of the car for the large majority of the time. If I'm wrong about this, Miss O should let me know the periods she didn't have any use of the car and provide any available evidence in response to this decision.

I've considered the later oil leak and replacement of the oil sump in January 2025. But there's little commentary on this, including from the independent reports. However I don't need to make a finding on whether this meant the car was of satisfactory quality at the point of supply or not. I say this as I find Miss O should be reimbursed this cost either way, as she will not have the benefit of this repair. I've seen a receipt from 10 January 2025 for £315.21.

I've also seen an earlier invoice from a garage for £80 from 5 December 2024 that Miss O explains was diagnosing the issue for the above repair. I'm satisfied this was the case, as there's a note on the invoice stating "Sump Slight Leak". So, I also think this should be reimbursed.

I've considered the issue Miss O raised about the car's service history. I agree this is incomplete. But, I haven't been provided with any evidence Miss O was given any conflicting information about this, for instance being told it had a full service history, before she entered into the agreement. So, AFL needs to take no action on this point.

Finally, I agree with our investigator that Miss O has suffered distress and inconvenience because of what happened. She's had to take the car for multiple repairs. I think it must have been very upsetting and has caused unnecessary stress to be denied her right to reject the car multiple times. And this situation has been going on for a significant time. I find AFL should pay a higher amount than recommended by our investigator of £300. I have seen from its contact notes that it has already paid Miss O £100 to reflect what happened, so it needs to pay an additional £200.

I gave both parties two weeks to respond with any further information or evidence.

AFL responded and explained that Miss O hadn't made any repayments towards the agreement for the later period, beginning at the end of August 2024, that I explained she should be reimbursed 50% of the repayments from. It showed a statement of account showing it had previously credited the full payments to the account in September, October and November 2024.

Miss O responded and said she'd recently had an MOT done. She said as part of this, the test noted issues with a leak of exhaust gases from the exhaust and an issue with the suspension.

I then wrote to Miss O and explained I would no longer be asking AFL to reimburse the partial repayments from the end of August 2024, as these had already been credited.

I told AFL the same and explained that as Miss O had recently had the car MOT'd, I would likely instruct it to reimburse this cost if she provided evidence.

Miss O then provided two receipts from a garage, one for £50 and one for £88.06.

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.

As above I don't think it would be reasonable for AFL to reimburse Miss O the partial repayments from the later period, as it has already credited her account for the time in question.

I do think it would be fair for AFL to reimburse Miss O for the cost of the MOT as she won't have the benefit of this expense. She's provided a receipt for £50 from 12 May 2025.

Miss O provided another receipt for £88.06. This is from the same company and is timestamped a couple of minutes after the first receipt. But I haven't been given a specific breakdown of what this was for. And I don't want to delay things further by asking for more evidence at this point.

Assuming this cost was in relation to this car, whatever was paid for, I'm satisfied Miss O won't get the benefit from it. So, I find AFL should reimburse this amount, but only on production of evidence such as an invoice linking the amount paid to her car.

I've also considered what the recent MOT test results showed along with all of the other comments Miss O made in response to my provisional decision. But, in summary, these don't change my opinion about the complaint nor affect the findings I made.

Having thought about everything again, I still think the complaint should be upheld. Aside from the points addressed above, I'm satisfied what I set out in my provisional decision is fair and reasonable under the circumstances.

My final decision

My final decision is that I uphold this complaint. I instruct Advantage Finance Ltd to put things right by doing the following:

- Cancel the agreement with nothing further to pay
- Collect the car at no cost to Miss O on a date convenient for her
- Reimburse 50% of the repayments towards the agreement from inception to when the misfire and horn were repaired on 30 May 2024*
- Reimburse Miss O £80 for diagnostics from 5 December 2024*
- Reimburse Miss O £315.21 for repairs from 10 January 2025*
- Reimburse Miss O £50 for the MOT from 12 May 2025*
- Reimburse Miss O £88.06 for other costs from garage from 12 May 2025* **
- Pay Miss O £200 to reflect the distress and inconvenience caused
- Remove any adverse information from Miss O'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 AFL considers that it's required by HM Revenue & Customs to withhold income tax from the interest, it should tell Miss O how much it's taken off. It should also give Miss O a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue and Customs if appropriate.

**Only on production of an invoice to AFL showing these costs were linked to Miss O's car.

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

John Bower

Ombudsman