

The complaint

Mr W complains about the quality of a used car he acquired through a hire purchase agreement with Carmoola Limited ('Carmoola'). Mr W says that the car has a problem with the steering system that started not long after he bought it, and he has been unable to use it for much of the time he has owned it. He says the car was unfit for purpose and he would now like to reject it.

What happened

Our Investigator thought the complaint should not be upheld. Mr W disagreed with the Investigator's opinion. The complaint was then passed to me.

I issued my provisional decision saying that Mr W's complaint should be upheld. A copy of the background to the complaint and my provisional findings are below in italics and form part of this final decision.

What I said in my provisional decision:

Mr W's complaint is about the quality of a car he acquired in August 2022. The car was used, and it was first registered in September 2015. So, it was just under seven years old when Mr W received it, and the car had covered 70,986 miles.

Mr W acquired the car using a hire purchase agreement that started in August 2022. The vehicle had a retail price of £24,990. Mr W paid a £3,990 deposit meaning £21,000 was financed. This agreement was to be repaid through 60 monthly instalments. There were 59 monthly repayments of £422 and then a final instalment of £423. If Mr W made repayments in line with the credit agreement, he would need to repay a total of £29,311.

Mr W has complained about the quality of the car. Below is a summary of the issues complained about and the investigation and repair work that has been carried out by the dealership and other garages. There is also an independent report.

In December 2022 the car steering became faulty. Mr W reported this to the dealership and the car was taken in to be repaired.

Both Carmoola and the dealership agreed that the car should be repaired but there was a very long delay in this happening. I've noted all the correspondence about this, but I won't comment on all of it as all the parties to the complaint are aware of it.

Mr W has provided a repair quote from a garage that specialises in cars of the same manufacturer. This is dated from December 2022, and it shows this garage thought the electric power steering needed to be replaced. And Mr W also received a quote from a third party garage, dated February 2023, which shows the steering rack needed to be replaced.

Mr W continued to correspond with the dealership and Carmoola about the repairs that were needed to the car whilst this delay was ongoing. Mr W wasn't provided with a courtesy car, or any alternative means of transport, throughout this period. I can see the lack of transport caused him significant problems and he purchased a cheaper second car. This car also broke down at one point.

Mr W started to say he wanted to reject the car in July 2023. And it's worth noting that, in October 2023, Carmoola agreed that Mr W should be able to reject the car due to the delay in the repair and it informed the dealership of this. However, all the parties to the complaint were then informed that the car was repaired and Mr W received it back in November 2023.

Mr W first complained to Carmoola in October 2023. Carmoola upheld this complaint in its response letter dated 22 November 2023 on the basis that the dealership took too long to repair the car. It offered to pay Mr W two monthly repayments of £422 (£844) and a refund of the car tax he paid of £240. A total of £1,088.

Mr W didn't bring this complaint to the Financial Ombudsman Service at this point.

The car broke down again in June 2024 and the breakdown report I've seen shows that Mr W was having difficulty steering the car. The report says that it suspected the electric power steering pump had become faulty again. Mr W complained to Carmoola about this as he thought it was a recurrence of the same problem he had faced earlier.

As part of the second complaint process Carmoola arranged for the car to be inspected by a third party reporting organisation. This report, completed in July 2024, concluded that the electric power steering pump required a repair or replacement. It said that:

'... in my opinion the fault with the previously replaced steering rack and the electric power steering pump are not connected. The electric power steering pump is a separate component. In my opinion the failure of the electric power steering pump is not the result of a failed previous repair.'

Mr W has also had the car looked at by a third party garage in August 2024 and the engineer has concluded that the electric power steering motor needs replacing. It said that these units are part of the steering rack and are not separate. It said that the previous repair likely used a substandard part (from a scrapyards) and this is the reason for the second steering fault.

Carmoola considered this complaint in a second final response dated July 2024. It said the first repair was to the steering rack motor, but the part that had now failed (and confirmed in the independent report) was the electric power steering pump. So, it said the current steering problems weren't linked to the first fault and repair to the steering rack. It didn't uphold the complaint.

Mr W didn't agree with this and brought his complaint to the Financial Ombudsman Service.

Our Investigator didn't uphold Mr W's complaint. She said that the independent report showed that the current fault wasn't linked to the previous problems and so the earlier repair hadn't failed. And she wasn't persuaded that the fault was present or developing at the time of sale and so the car was of satisfactory quality. And she noted that Mr W had been able to travel 5,229 miles even though the car was not useable for ten months

Mr W didn't agree with the Investigator, and I've noted the further correspondence about this. Because agreement wasn't reached, this matter has been passed to me to make a final decision.

What I've provisionally 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.

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 was good industry practice at the relevant time.

I've read and considered the whole file, but I'll concentrate my comments and information on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it to reach what I think is the right outcome.

The agreement in this case is a regulated hire purchase agreement – so we can consider a complaint relating to it. Carmoola as the supplier of the goods under this type of agreement is responsible for a complaint about their quality.

The Consumer Rights Act 2015 ('CRA') is relevant 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'.

To be considered 'satisfactory', the goods would need to meet the standard that a reasonable person would consider satisfactory – considering 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 consider might include things like the age and mileage at the time of sale and the car's history.

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 this.

This car was about seven years old when Mr W acquired it, and it had travelled around 70,000 miles. I think a reasonable person would accept that such a vehicle would probably have some parts that are worn and would need replacing sooner or later – which is reflected in the lower price paid in comparison to a new vehicle.

But there's also a reasonable expectation that a vehicle will be relatively durable - taking into account its age, price and mileage at the outset. So even though the vehicle wasn't new Mr W should have been able to use it for a reasonable period of time before it needed significant work.

I think it's established, and agreed, that the steering system problems in 2022 made the car of unsatisfactory quality. Carmoola has recognised this and offered, and I understand paid, compensation. And I've noted that, at one point, it agreed that Mr W should be able to reject the car due to the length of time it was taking to for the repair to be completed.

I also think it's reasonable to say that Mr W accepted the repair and the compensation at the time. Even though he did have a right to reject the car due to the delay in the repair, as acknowledged by Carmoola.

The crux of the ongoing complaint concerns the second fault with the steering system that happened in June 2024. Carmoola says that Mr W shouldn't receive any further compensation as an independent report showed the problems with the steering system were due to a failure of a part that wasn't repaired or replaced earlier. As this wasn't a 'failed repair' then it shouldn't need to pay compensation. I think this is a misunderstanding of the provisions of the CRA and I'll explain why.

Section 24 of the CRA says that:

'A consumer who has the right to a price reduction and the final right to reject may only exercise one (not both), and may only do so in one of these situations - after one repair or one replacement, the goods do not conform to the contract;'

I think when the car steering system failed in December 2022, this was a significant fault that would have been present or developing at the time of sale, as has been agreed. And because of this the car didn't conform to the contract as it wasn't of satisfactory quality.

And I think the same applies when the steering system became faulty in 2024. The car was again of unsatisfactory quality due to a fault that was likely to have been present or developing at the time of sale, and so it didn't conform to the contract. I'm saying this as Mr W had very little use of the car since the first fault was repaired and so, regardless of the exact nature of the problem, Mr W had a car that was unsatisfactory quality both in 2022 and 2024.

Much of the correspondence in the complaint, and Carmoola's primary reason for saying Mr W shouldn't be paid further compensation is because it thinks the previous repair hadn't failed. Of

course, if a repair is needed to make a car of satisfactory quality, and this repair fails, then this would satisfy the provision for a rejection of the car under CRA section 24 (a).

But this is not the only reason why a car may become of unsatisfactory quality after being repaired. And there is no provision in the CRA that says any repairs or problems need to be related. The test is whether the goods, in this case the car, are of satisfactory quality and there is provision for one repair in the CRA. If the car needs more than one repair to make it conform to the contract, even if these are for unrelated issues, then a consumer has the final right to reject it. I think this applies here.

So, I think Mr W should now have the right to reject the car due to it being of unsatisfactory quality on two occasions. I think compensation should be based on this.

It follows from this that I don't think the independent report is relevant as it doesn't address whether the car was of satisfactory quality. That said, it's worth noting that the invoice from the specialist manufacturer's garage from 2022 (the first fault) refers to the electric power steering needing to be replaced. And the information Mr W has provided from a third party garage says that the steering rack and electric power steering system are one unit and are not separate parts.

Given this, I think there is considerable doubt that the independent report has reached the correct conclusion here and it seems to have not correctly diagnosed the fault with the car. I'm noting this because I don't think a further investigation into what went wrong with the car in 2024 would result in me being able to conclude that the car was of satisfactory quality at this time.

Mr W was unable to use the car over the time it was in the dealership to be repaired. And from June 2024 when the car failed again. As far as I have been made aware Mr W wasn't kept mobile by Carmoola and it provided no assistance to him with the lack of transport that he had.

So, I think it should refund the payments he made over these periods entirely. I don't have the exact dates of when Mr W couldn't use the car during the first period when it was being repaired, it would be helpful if Mr W could provide these in response to the provisional decision and I'll adjust the compensation to reflect this in a final decision.

Mr W has described how all of this has inconvenienced him. He wasn't provided with alternative transport, and he needed to buy a second car to travel. He has described the problems he had when this second, lower priced car, also broke down. I can see that Carmoola was aware of this, and I've read all of the dialogue between Mr W and Carmoola when he informed it of the significant and long term problems he was having due to the lack of transport he had.

It's disappointing that Carmoola didn't really do anything to assist here as it should have done. I can see it was in contact with the dealership, but it is the responsible entity here and it needed to assist Mr W, not the dealership. Given the amount of distress this evidently caused Mr W, I think a significant award is appropriate and I think £500 is fair.

Developments

Carmoola, and Mr W, received my provisional decision. Mr W didn't have anything to add.

Carmoola didn't agree with my provisional decision. It provided a lengthy and detailed response. Much of this response was setting out the background to the circumstances of the complaint, but a summary of why it disagreed with what I said is below:

- The independent report clearly showed that the second problem with the car steering system was new and unrelated to the previous repaired faults to the car steering.
- As this second fault occurred more than six months after the point of supply, the burden of proof was with Mr W to show the issues were present at the time of purchase.
- This was unlikely as Mr W was able to drive the car an additional 5,229 miles over 22 months. This is not 'very little use'.

- There is no evidence to confirm that the first steering fault was present at the time of purchase, but it accepted the vehicle was likely to be of unsatisfactory quality and paid compensation.
- There is no evidence to show that the independent report was incorrect or that the car wasn't of satisfactory quality at the time of supply or at the time of the second fault.

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 have considered the response that Carmoola has provided. As a starting point, whilst it is comprehensive, it doesn't raise any new issues or provide any new evidence. It largely reiterates the points that it had already made, and discusses the evidence already provided. I had already considered all of this. So, after considering Carmoola's response I've reached the same conclusions I reached before, for the same reasons. I'm also not going to respond in detail to each point made because of this.

I still think the car is of unsatisfactory quality and the time and amount that Mr W drove it needs to be considered in context of the problems he had with the car. As I said in the provisional decision, the car was acquired in August 2022 and the steering became faulty in December 2022. It wasn't repaired until November 2023 a period of about eleven months. The steering became faulty again in June 2024 and Mr W has been unable to use the car since that time.

So, whilst I recognise that Mr W acquired the car several years ago, I think it's right to say that he hasn't had a great deal of use out of it, given the time he has owned it. This is due to the very lengthy time that the car has been either in for a repair or faulty. Being only able to drive a car about 5,250 miles in two and half years, due to it being repaired or faulty a large amount of the time, can be fairly described as very little use.

I still think the car was of unsatisfactory when it first broke down in December 2022. As the repair took too long Mr W should have had the opportunity to reject the car then, as Carmoola agreed at the time. I think a breakdown for a very similar reason about six months later, is further evidence the car wasn't of satisfactory quality. For the reasons I gave in my provisional decision.

As I said before I think the independent report is of limited use. But Carmoola have continually said that there is no evidence to dispute what was said in the report. Specifically, the report's conclusion was the second steering fault wasn't due to a failed repair of the first steering fault.

But this isn't the case, as I said in my earlier decision, there are reports from two other garages, one of which is a specialist in the car manufacturer's vehicles, which show the independent report may be incorrect about this. And one of the garages reports gives a detailed explanation of the car's fault and why both faults may be connected. I did find this evidence persuasive, as I said.

I don't really have anything to add to what I said earlier, other than it is a misrepresentation of the facts of the case to say that the independent report is the only assessment of the car. And it's difficult to put much weight on what Carmoola is saying about the quality of the car when it is clearly not considering all the evidence about it.

Having considered everything again, I still think that this complaint should be upheld and Carmoola should now pay compensation.

Putting things right

I uphold this complaint against Carmoola and tell it to:

- End the finance agreement ensuring Mr W is not liable for monthly payments after the point of collection (it should refund him any overpayment for these if applicable).
- Take the car back (if that has not been done already) without charging for collection.
- Refund Mr W any amounts he paid between December 2022 to November 2023, and from 26 June 2024 onwards.
- Pay Mr W 8% simple yearly interest on all refunds calculated from date of payment to date of settlement.
- Pay Mr W £500 compensation for the inconvenience and distress this situation has caused him.
- Remove any negative entries from his credit report due to the finance

If Carmoola considers that it's required by HM Revenue & Customs to withhold income tax from the interest part of my award, 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 & Customs if appropriate.

Carmoola offered to pay compensation to Mr W in 2023. If this was paid then it can deduct the payment made from the above compensation.

My final decision

For the reasons I've explained, I uphold Mr W's complaint.

Carmoola Limited should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 28 August 2025.

Andy Burlinson
Ombudsman