

## The complaint

Mr W complains that a car acquired under a hire purchase agreement through Marsh Finance & Commercial Limited (“Marsh”) wasn’t of satisfactory quality when it was supplied to him.

## What happened

Both parties are familiar with the background of this complaint so I will only summarise what happened briefly here.

In May 2024, Mr W entered into an agreement to acquire a used car. The car was supplied by a dealership (N) and Mr W used a credit broker (Z) to source the finance. He paid a deposit of £1,100, with the purchase balance provided by Marsh under a hire purchase agreement. The car was just over six years old and had covered approximately 84,500 miles when the agreement started. The agreement was for 60 months, with 59 payments of £240.09 and a final payment of £250.09. The cash price of the car was £10,500.

A couple of months later Mr W got in contact with N. He said the car had faults – specifically that:

- The stop/start function wasn’t working.
- There was a loud whirring noise from inside the car when it was started.
- There appeared to be a lack of power when accelerating.
- The engine appeared to be getting progressively louder.

N completed a diagnostic test on the car at the end of July 2024 and agreed to take the car in for repair. This repair wasn’t completed until early October 2024, when Mr W has said the water pump was replaced. This didn’t fix the faults, so Mr W got in touch with Z to complain. Z arranged for an independent inspection to take place. This inspection took place in January 2025, and the car had covered approximately 86,800 miles at that point. The inspection identified the same faults Mr W had notified N of in July 2024 but concluded the length of time Mr W had had the car suggested the faults wouldn’t have been present at the point of supply.

Mr W complained to Marsh in February 2025. He provided his own independent report, but Marsh didn’t uphold his complaint. They said the reports didn’t confirm the faults would have been present or developing at the point of supply.

Mr W brought his complaint to our service. Our investigator upheld it. She said she was satisfied Mr W had shown the faults were present or developing when the car was supplied, and the previous attempt to repair it had failed. She said Mr W should be able to reject the car and end the agreement. She asked Marsh to reimburse 10% of Mr W’s monthly payments between 8 July and 9 October 2024, and all his monthly payments from 10 October 2024 onwards. She acknowledged Mr W had incurred other costs too, and asked Marsh to reimburse those. Finally, she said Marsh should pay Mr W £200 compensation.

Mr W agreed in full.

Marsh didn't agree. They said they didn't think Mr W's independent report should be considered as evidence as the assessor hadn't given his consent for it to be used. And they said the evidence suggested the car was of satisfactory quality when it was supplied to Mr W.

As Marsh didn't accept, the complaint has been passed to me to decide.

### **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.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations, relevant regulatory rules, guidance and standards and codes of practice.

As the hire purchase agreement entered by Mr W is a regulated consumer credit agreement this service is able to consider complaints relating to it. Marsh are also the supplier of the goods under this type of agreement and are responsible for a complaint about their quality.

The Consumer Rights Act 2015 (CRA) also covers agreements like the one Mr W entered. Because Marsh supplied the car under a hire purchase agreement, there's an implied term that it is of satisfactory quality at the point of supply. Cars are of satisfactory quality if they are of a standard that a reasonable person would find acceptable, taking into account factors such as, amongst other things, the age and mileage of the car and the price paid.

The CRA also says that the quality of goods includes their general state and condition, and other things like their fitness for purpose, appearance and finish, freedom from minor defects and safety can be aspects of the quality of the goods.

Satisfactory quality also covers durability. For cars, this means the components must last a reasonable amount of time. Of course, durability will depend on various factors. In Mr W's case, the car was used and had covered approximately 84,500 miles when he acquired it. So, I'd have different expectations of it compared to a brand-new car. Having said that, the car's condition should have met the standard a reasonable person would consider satisfactory, given its age, mileage, and price.

Our investigator has said that she thinks the car wasn't of satisfactory quality when it was supplied to Mr W. I agree in this case. It's clear the car has faults – the evidence from both sides confirms that – and from what I've seen I'm satisfied the evidence shows the car wasn't of satisfactory quality at the point of supply. I'll explain why.

Mr W initially made Marsh aware of his concerns with the car in February 2025, nine months after he'd been supplied with it. So, I need to consider if Marsh have done what I'd expect them to have done once they were aware there were problems with the car. As this was outside of six months since Mr W had been supplied with the car, it was for him to show any faults would have been present at the point of supply.

I'm satisfied he has done that here. Mr W got in contact with N in early July 2024 to explain to them that the car was experiencing faults, and N agreed to take the car in for a diagnostic test and subsequent repair. I'm more satisfied than not that N's willingness to undertake the repairs is enough evidence to suggest the car wasn't of satisfactory quality at the point of supply. Further, Mr W had only had the car for two months at that point, and hadn't covered more than 2,000 miles, so his use hadn't been excessive. So, I'm not persuaded the faults Mr W experienced with the car in July 2024 would have materialised as a result of excessive use or wear and tear at that stage.

It followed that two independent inspections were carried out. One arranged by Z, and one arranged by Mr W. Marsh have said that they don't think Mr W's report should be considered as evidence, as they don't accept that the assessor has given his consent for the report to be used. I don't agree with Marsh on this point. The introduction to the report says:

*'My report is intended solely in connection with this instruction. It may not be disclosed to any unconnected third party and should not be relied upon for any other purpose.'*

The report names our service within its contents, so I don't accept that we're an *'unconnected third party.'* Our role is to consider all the available evidence to reach an outcome quickly and informally, based on what is provided by both parties. Also, the report has only been considered in the context of the satisfactory quality, or otherwise, of the car supplied to Mr W. It hasn't been relied on *'for any other purpose.'*

The reports provided are contradictory in places. But they both agree that the car is lacking power, and the stop/start function isn't working. These are the same issues that Mr W reported to N in July 2024, and that they had an opportunity to repair. As I've explained previously that I'm satisfied N's acceptance to undertake repairs is acceptance that the car wasn't of satisfactory quality when it was supplied, I'm also satisfied that the opportunity to repair has passed.

I don't find the report provided by Z to be persuasive. It has given the time Mr W has had the car as the reason for concluding the faults wouldn't have been present when the car was supplied. But I'm not persuaded the time alone is a valid reason – Mr W had reported the same issues within the first two months to N and hadn't covered many miles. When the report was completed in January 2025 the mileage was 86,807 so it's clear Mr W hadn't used the car much in the time he had been in possession of it. I'm satisfied the use of the car and the miles covered is a much more accurate representation of when the faults might have happened, or if they were present or developing at the point of supply.

The CRA sets out that (outside of the first 30 days) if the car isn't of satisfactory quality, there's been a repair attempt, and the car still doesn't conform to the contract, Mr W should be able to reject it. Ideally, Mr W would have notified Marsh of the faults when they happened and allowed them to make a decision on the next steps they wanted to take. But, by allowing N to undertake the initial repairs I'm not persuaded Mr W has prejudiced Marsh's position in this case – I'm more satisfied than not that they would have asked the supplying dealership to undertake the repairs as they had supplied the car less than two months prior to the first faults being reported. It follows that my decision is that Mr W can now reject the car. Marsh should end the agreement, and arrange to collect the car at no cost to Mr W. They should also refund his deposit to allow him to be in the same position as he was prior to the agreement commencing, so he can consider his options for a new car.

Mr W had use of the car up until 8 July 2024, but his use was curtailed between that date and 9 October 2024, when the repairs were completed by N. For that, Marsh should refund Mr W 10% of each monthly payment he made between those dates. From 10 October 2024, Mr W hasn't had use of the car so Marsh should refund all monthly payments made towards the agreement from that date.

Mr W has incurred other costs, as explained by our investigator, and I'm satisfied he should be reimbursed for those. He paid £500 to ensure the car was inspected and road ready, and he paid £255 for his own independent report to help him confirm the faults present in the car. I'm asking Marsh to settle those costs.

Mr W has explained the upset he's been caused by being supplied with a car of unsatisfactory quality and the time it took him to prove this. It's clearly been a troubling time for him. No amount of money can change what's happened, but the amount of compensation I'm awarding is in line with what's awarded where the impact of the mistake has caused considerable distress, upset and worry. Marsh must pay Mr W £200 to reflect the upset having a car of unsatisfactory quality has brought to him. They must also remove any adverse information in relation to this agreement from Mr W's credit file, if applicable.

### **My final decision**

For the reasons above, I uphold this complaint. Marsh Finance & Commercial Limited must:

- end the finance agreement ensuring Mr W is not liable for monthly rentals after the point of collection (they 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's deposit payment of £1,100.
- refund 10% of each monthly payment made between 8 July and 9 October 2024, to reflect Mr W's loss of use, or impaired use, due to the car being of unsatisfactory quality.
- refund Mr W all the monthly payments made to the agreement from 10 October 2024, when he stopped using the car.
- reimburse Mr W for the preparation fee he paid, and for the independent report he arranged. This is a total of £755.
- pay 8% simple interest on all refunded amounts, from the date of payment until the date of settlement.\*
- pay Mr W £200 to reflect the upset caused to him by being supplied with a car of unsatisfactory quality.
- remove all adverse information, in relation to this agreement, from Mr W's credit file (if applicable).

\*If Marsh Finance & Commercial Limited consider that they're required by HM Revenue & Customs to deduct income tax from that interest, they should tell Mr W how much they've taken off. They 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.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 15 December 2025.

Kevin Parmenter  
**Ombudsman**