

The complaint

Mrs S has complained about the quality of a car provided on finance by Marsh Finance & Commercial Ltd.

What happened

The events surrounding this complaint are well known to both parties, so I'll only summarise what happened briefly here. Marsh supplied Mrs S with a used car on a hire purchase agreement in January 2024. The cash price of the car was around £9,000 and it had covered around 28,200 miles since first registration in March 2017. The hire purchase agreement required payments of around £230 for 58 months followed by a final payment of around £240.

Mrs S reported issues with the car shortly after supply. Marsh looked into complaints about the quality of the car and issued final responses in March and April 2024. Those complaints were not referred to the Financial Ombudsman, but I mention them here by way of background to what happened later.

In March 2024 the selling dealer made repairs to the fuel pump connectors and the timing chain. In April 2024 an oil leak was reported and repaired.

In September 2024 Mrs S paid for a service which included renewing the brake fluid and changing the oil at a cost of around £520. The car passed an MOT, and the mileage was around 34,800.

Mrs S complained again to Marsh in March 2025. She said the car had broken down and there was a fault with the high-pressure fuel pump.

Marsh commissioned and paid for an independent report by a mechanical engineer I'll call Expert A in March 2025. The mileage was around 40,800. Expert A was aware of repairs to the fuel pump connectors, timing chain and an earlier oil leak. Expert A said that there were excessive oil levels which had contributed to the mechanical symptoms. It said there was evidence of oil leaking and cavitated oil which meant that there wasn't sufficient pressure to the timing chain tensioner. It said that there was no clear evidence that the faults were present at supply or that they were due to failed repairs. It said that the issues were related to maintenance and wear rather than defects.

Marsh said that the inspection didn't demonstrate that the car wasn't of satisfactory quality at the point of supply, or that there were failed repairs, so it didn't uphold the complaint.

Mrs S referred her complaint to the Financial Ombudsman. An investigator here looked at the complaint. She initially thought that there wasn't sufficient evidence that the car wasn't of satisfactory quality when it was supplied.

Mrs S disagreed. She said that Expert A was wrong because another garage had said there was no oil, and not too much oil. She supplied further diagnostics from her own garage and said she'd been verbally told there was a failed repair. She said she had no alternative but to

start paying for repairs. She paid around £1,300 for repairs to the fuel regulator and tyres. Mrs S said that Expert A had also verbally said that the issues were due to a failed repair but that the actual written report contradicted this.

Our investigator issued a further opinion explaining that she thought it likely that the initial repair had failed and/or the car wasn't durable. She recommended that Mrs S should be allowed to reject the car with a refund of what she had paid for repairs and diagnostics. She also recommended a refund of monthly payments as Mrs S had stopped using the car in February 2025 plus £250 compensation.

Mrs S agreed with the recommendations. Marsh disagreed and in summary it said:

- In March and April 2024 repairs were arranged and carried out.
- Mrs S resumed use of the car and drove it for over 13,000 miles after repairs, which was a clear indication that it was functional and being used consistently.
- This prolonged and uninterrupted use strongly suggested that the car was for a substantial period meeting its expected function and performance.
- Repairs were carried out through external unauthorised garages which limit liability to accept faults after third party work was carried out.
- The right to reject did not apply as there wasn't a failed repair.
- The remedy was disproportionate in the absence of a clear single causative fault linked to the supply of the car.
- Expert A acknowledged the car had been used for over 41,000 miles with wear on parts consistent with use.

Marsh asked for an ombudsman to make a decision, so it was passed to me. I issued a provisional decision which said:

When considering what is, in my opinion, fair and reasonable, I take into account relevant law and regulations; regulator's rules, guidance and standards; codes of practice; and what I believe to have been good industry practice at the relevant time.

I've read and considered the evidence submitted by both parties, but I'll focus my comments on what I think is relevant. If I don't comment on a specific point, it isn't because I haven't considered it, but because I don't think I need to comment in order to reach what I think is the right outcome. This is not intended as a courtesy but reflects the informal nature of this service in resolving disputes.

Where the evidence is incomplete, inconclusive, or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Firstly, I am very sorry to hear about the difficulties Mrs S has described to this service. I can't imagine how she must feel but thank her for bringing her complaint. I need to clarify that I'm only looking into a complaint about Marsh, rather than the other parties that have been involved here.

The agreement in this case is a regulated consumer credit agreement. As such, this service is able to consider complaints relating to it. Marsh 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 (CRA) 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 CRA 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. In a case involving a car, the other relevant circumstances might include things like the age and mileage at the time of supply and the car's history.

The CRA 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.

When Mrs S acquired the car in January 2024 the mileage was around 28,200 and the cash price was around £9,000. The car was first registered in March 2017, so by this stage it was nearly seven years old. It wouldn't be unreasonable to expect the car to be showing some signs of wear and tear, and that might include the underlying components. There would be very different expectations of it than if it was a brand-new car. The price paid usually reflects the age and condition of the car.

As a starting point there would need to be some evidence of what the fault was. And secondly, that the fault renders the car of unsatisfactory quality.

I don't think it is in dispute that there is evidence that there were faults with the car and repairs were made.

Shortly after acquiring the car Mrs S had to return to the selling dealer for repairs. She's explained that there was a warning light, and several repairs were carried out. She said there was a repair to the fuel pump, timing chain and an oil leak. Mrs S appears to have asked for repairs which look to have been completed around April 2024.

The CRA explains that where goods are found not to have conformed to the contract within the first six months, it is presumed the goods did not conform to the contract at the point of supply. Unless the supplier, Marsh in this case, can show otherwise. Mrs S brought the initial concerns with the car to Marsh's attention in March and April 2024, which is within the first six months. However, repairs were made which appear to make the goods conform to the contract. So, I need to decide if Marsh have done as I'd expect it to do when Mrs S contacted it again 14 months after taking possession of the car, and 11 months after the initial repairs.

When something goes wrong with a car it isn't automatically something that the finance provider is responsible for. Sometimes the underlying components of a car suffer wear and tear which might mean that they come to the end of their serviceable lifespan during the course of a finance agreement.

The issues she experienced could be due to damage sustained during Mrs S' possession of the car, or reasonably expected wear and tear, or even third-party repairs, which wouldn't be Marsh's responsibility. Or it could point to a defect that was present at the point of supply, or the failure of the repairs carried out by the selling dealer.

Following the initial repairs I haven't seen anything which indicates that Mrs S experienced any further issues until March 2025. In the meantime, in September 2024, she also had a full service and MOT, and the invoice notes that the oil was changed.

Marsh arranged for an independent inspection of the car to take place. This was a visual inspection of the car by a qualified technician. Considering the description of the faults, how long Mrs S had had the car, and the mileage covered, I don't think it's unreasonable for Marsh to have asked for some independent evidence to confirm or not that the car had an

inherent fault or that earlier repairs had failed. I appreciate Mrs S said that inspector verbally told her that there was a failed repair. But the report doesn't say that.

Mrs S said that everything in that report was false information because another garage had later told her there was no oil. She said that she was told verbally that the car was dangerous and that this was due to a failed repair. The later diagnostic from Mrs S' garage seems to verify what she was told about the oil. But where information and evidence are contradictory, I have to consider what I'm more persuaded by. The later diagnostic is quite brief and there are discrepancies such as the incorrect mileage and lack of registration. It does corroborate what the fault was, but crucially it doesn't point to there being a failed repair. A handwritten note says "timing chain issues or lack of oil will cause this issue. Oil level was very low and not registering on the dipstick oil (level rectified)" [sic]. I understand that the same garage also carried out the repairs that she paid for, which might cast doubt on their independence.

On the other hand, Expert A is recognised in the industry to perform these inspections. His statement includes his qualifications and a statement of truth to the court. It would be difficult for me to question the authenticity or opinion stated in either report. Our service isn't able to compel witnesses and marshal evidence in the way a court can.

Mrs S has shown that she has now paid around £1,300 for repairs to the high-pressure fuel regulator. The total invoice also included the cost of replacing two tyres. I can understand Mrs S is disappointed the car had such problems, that weren't cheap or easy to rectify. But what I have to bear in mind is that just because I've seen there are faults with the car that manifested within the first 14 months, this doesn't necessarily mean the car wasn't of satisfactory quality when it was supplied to Mrs S – which is what I need to decide.

Based on the findings of the report, I don't think Marsh treated Mrs S unreasonably by not taking any further action. They are only liable if the faults were present at the point the car was supplied to Mrs S or due to a failed repair that it commissioned, and the evidence in this case doesn't confirm that. Whilst I accept Mrs S disputes the findings of the report and thinks it is contradictory in some respects to her own diagnostic, the difficulty here is that her counter evidence doesn't provide much detail on the cause of the issues she experienced. I'm not saying something definitely didn't go wrong, merely that I don't think it was unreasonable for Marsh to rely on the expert opinion.

I appreciate that our investigator had her own opinion on what had caused the issue and that the parts had failed prematurely. But I also have to take into account that I don't have any information about the service history of the car before Mrs S acquired it. I have to take into account the mileage that the car covered while it was in her possession. I can appreciate that there were early repairs, but a significant amount of time had elapsed before further problems had been reported, and Expert A was aware of the earlier repairs. At least one third party garage had also serviced the car after the initial repairs, and it had passed an MOT with no advisories. The car had covered around 13,000 miles since it was supplied. I don't think the car would have been able to do that if there had been a failed repair.

I've noted Mrs S told our investigator that she was told the car had an online service history, but I've not been provided any record of that. But having checked the advert I can't see any clear indication that it was advertised as having a full service history. I've not seen any compelling evidence she was told something which turned out to be untrue or that key information wasn't disclosed. But in any case, Marsh aren't responsible for the negotiations carried out with the selling dealer, because it wasn't acting as its agent.

I understand that repairs have now been completed, so it's not possible now to establish the cause of the problems. I don't have sufficient evidence for me to say now, even on the

balance of probabilities, that there was an inherent fault, a failed repair or that the car wasn't sufficiently durable.

I appreciate Mrs S is unhappy she feels she's lost out and she's had to pay a significant amount for repairs. I'm sorry to disappoint Mrs S, but without sufficient evidence of faults which made the car of unsatisfactory quality, I find I don't yet have the grounds to direct Marsh to do anything further.

Mrs S doesn't need to accept my decision, and she'll be free to pursue the complaint by other means, such as through the court, after obtaining legal advice, as necessary.

Marsh responded to the provisional decision. It did not have any comments other than to say that the selling dealer said that it didn't hold any further information about the service history of the car.

Mrs S responded to the provisional decision. In summary she said:

- She accepted the content of the provisional decision but Marsh as a lender provides finance for companies that they work with.
- She said that before she entered into the agreement, she checked the credentials of the selling dealer, who were not registered with any governing body. They sold the car, and she maintained that it was not in good condition in light of how quickly the issues arose.
- She understood that when purchasing a car of this age there might be problems, but as the investigator had stated, the fuel pressure system should last approximately 100,000 miles. But at the time of the first issue the car had not even done 40,000 miles.
- She had constantly approached Marsh when there have been issues to keep them informed.
- Marsh was aware of the vulnerabilities in her household.
- Marsh has a duty of care to all customers, and an obligation to deal with dealerships that are regulated accordingly so that there is sufficient security. This is why she had escalated matters with the lender. She had never set out to get an expensive high spec car, just something safe.
- Mrs S confirmed she didn't have any further evidence but felt she should be awarded something in acknowledgment of the problems and lack of care.

As both parties have responded I'll now go on to make my 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.

I'd like to thank Mrs S for responding to my provisional decision and the comments she's provided. I understand she's disappointed by my findings, and I'm sympathetic to her position. But despite my natural sympathy I must remain impartial when considering this complaint. I can assure her that I've carefully taken into consideration all the information and evidence she's provided along with that provided by Marsh. Having considered Mrs S' response, I don't consider she has provided any new information or evidence that would change my overall outcome. In this decision, I've tried to concisely explain why the additional comments I've received since I issued my provisional decision haven't changed my mind.

I accept that Marsh provides lending for the companies that it works with. Here Mrs S entered into a hire purchase agreement, so as well as being the lender for the credit, Marsh

was also the supplier of the car. There isn't a direct relationship between Marsh and the selling dealer here, it was not acting as its agent. That's because there is another party that arranged the agreement, the credit broker named on her finance agreement. That's not to say something didn't go wrong, it's just that I don't have the power to look into a complaint directly against the dealer or hold Marsh responsible for its actions.

But even though Marsh doesn't have a direct relationship or responsibility for the negotiations by the selling dealer, it is responsible for supplying a car that is of satisfactory quality.

Mrs S needed to demonstrate that a fault that made the car not of satisfactory quality was present when the car was supplied to her. Marsh isn't automatically responsible when there are problems with the car. Clearly there was something wrong with the car, but the difficulty in this case is that the cause of the fault hasn't been established, and the onus was on Mrs S to show that the faults were present or developing when the car was supplied, due to a failed repair or due to a lack of durability.

I appreciate that our investigator had an opinion on the lifespan of the part that failed. I agree that the part might last as long as 100,000 miles but that depends on a number of factors. Making a finding on whether the part failed prematurely, and to be able to counter any expert opinions, I also need to take into account how the car has been maintained. And I simply don't have enough information about the servicing history of this car to say that it is more likely than not that the part failed prematurely.

Mrs S comments in response to my provisional decision haven't been able to persuade me that, on balance, it is more likely that the car wasn't of satisfactory quality when it was supplied.

The time that had elapsed before the issue was reported, the distance covered by the car and the inconclusive findings of the experts who saw the car, mean that it's difficult for me as an independent party to reach a different conclusion.

I accept that Marsh has a duty of care for its customers, but I haven't found that it acted unreasonably here. Having a duty of care doesn't mean that it ought to cover the costs of repairs even if it is aware of vulnerabilities. Marsh arranged and paid for the independent inspection. Arguably it didn't need to do that, but I think it was reasonable in the circumstances given there had been earlier issues with the car. So, it's difficult for me to say that it didn't handle the claim fairly and that I ought to direct it to do something to resolve this complaint.

On the basis I don't consider I've been provided with any further information to change my decision I still consider my findings to be fair and reasonable in the circumstances.

As a reminder Mrs S doesn't have to accept my decision. Then she'll be free to pursue the complaint by other means, such as through the courts, if she wishes.

Therefore, my final decision is the same for the reasons set out in my provisional decision, and above.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 25 December 2025.

Caroline Kirby
Ombudsman