

## **The complaint**

Mr S complains about the quality of car supplied to him on finance by Marsh Finance Limited ('MF').

## **What happened**

The parties are familiar with the background details of this complaint – so I will briefly summarise them here. It reflects my role resolving disputes with minimum formality.

In September 2024 Mr S was supplied a car by MF on hire purchase. However, he had problems with it shortly afterwards. Repairs were attempted but then there were other issues. Mr S had an expert inspection carried out ('Report A') which identified a likely major component failure so he approached MF to complain.

MF did not uphold the complaint. In summary, it said the car was suffering from usually expected wear and tear.

Our investigator upheld the complaint and said Mr S could fairly reject the car. However, MF disagreed and pointed to an expert report it had completed on the car ('Report B') to support this.

The matter has now been passed to me for a 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.

While I might not comment on everything (only what I consider key) this is not meant as a discourtesy to either party – it reflects my role resolving disputes with minimum formality.

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 to have been good industry practice at the relevant time.

The agreement in this case is a regulated consumer credit agreement. As such, this service is able to consider complaints relating to it. MF 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 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 Consumer Rights Act 2015 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. So it seems likely that in a case involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage at the time of sale and the vehicle's

history.

The Consumer Rights Act 2015 ('CRA from now on') 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 can be aspects of the quality of goods.

MF supplied Mr S with a second-hand car that was around 9 years old and had done around 82,900 miles at the point of supply. The dealer priced it at £6,380 which is notably less than what a new or newer model with less mileage would cost. It is fair to say that in these circumstances (particularly noting the age and mileage) a reasonable person would consider that the car had already suffered significant wear and tear – and was likely to require more maintenance and repairs sooner than you might see on a newer, less road worn model.

However, despite recognising that this was an older higher mileage car – it still cost Mr S several thousand pounds. And a reasonable person would not expect to receive it with a pre-existing fault with a major component like the engine.

I can see that things went wrong with the car very soon after Mr S took supply of it. Within a few weeks he complained to the dealer in a message that the car felt like it was misfiring when driving, had a rough idle and the engine management light, ABS and traction control light were illuminated. Mr S had done less than 700 miles in the car at this point.

I recognise this was an older higher mileage car – however, it still cost Mr S several thousand pounds. And I am not persuaded that a reasonable person would expect the type of issues Mr S experienced almost straight away. They indicate potentially serious engine issues. I say this also noting there is no persuasive evidence to show Mr S did anything to cause the issues himself. Because of when the issues occurred – they are indicative of a pre-existing fault with the car when Mr S took supply of it. I also note the dealer agreed to carry out repairs at no charge to Mr S – which indicates it accepted the early issues were unacceptable – even on an older car like this.

Overall, I am persuaded the early issues Mr S had with the car show it was of unsatisfactory quality at the point of supply. And that MF was liable for remedying this breach of contract under the CRA.

I note repairs were carried out by the dealer at the time which Mr S accepted as a remedy. This seems like a fair remedy on the face of things. However, the issue here is what subsequently occurred with the car.

From what I can see about six months and around 2,800 miles later it was found that the car was having problems starting. Mr S had Report A carried out which after conducting tests on the car concluded that the findings '*strongly indicate head gasket failure, with potential liner or cylinder head damage causing coolant ingress and loss of compression in cylinders 3 and 4*'. I find this report detailed and persuasive in showing that the present issue with the car is likely related to major engine component failure.

A key question here is whether the current issue identified by Report A is connected to the issues Mr S had shortly after taking the car. Because, if that were the case then it would strongly indicate the car was sold to Mr S with an underlying significant engine fault. And that initial attempts by the dealer to remedy this had failed. Thus fairly allowing Mr S the final right to reject the car in accordance with the CRA.

So whether the current issue is connected to the early problems is the key matter in contention here. I don't think I can say for certain – but where matters are unclear, I decide what is most likely the case on the balance of probabilities.

Here I consider on balance that the later problems are related to those earlier issues. I say this because:

- The issues Mr S originally raised to the dealer appear connected to those later identified by Report A – in that the symptoms he reported earlier are consistent with cylinder damage (misfiring) and engine problems (rough idle – engine warning lights).
- Mr S's testimony to the garage that carried out Report A was that he was getting ongoing coolant loss and intermittent misfiring. Indicating that repairs carried out by the dealer had not remedied the underlying issues he reported at the outset.
- There appears to be no persuasive record of a detailed diagnostic and investigation carried out by the dealer at the time Mr S reported the initial engine problems – which could have more persuasively ruled out signs of head gasket failure or other serious engine issue at the time.
- Report A concluded the symptoms identified suggested the issue had been present '*for an extended period*'.

So overall, and on balance I am persuaded the car was likely supplied to Mr S with a serious underlying engine problem – which worsened over time and eventually resulted in Mr S being unable to continue driving the car. With this in mind I consider Mr S now has the right to reject it.

It is important to note that in coming to my conclusion above I have carefully given thought to the findings of Report B which MF had carried out and is relying on. I note this report concluded, in summary, that there was no conclusive evidence of head gasket failure. And the current fault was most likely a wear and tear issue in respect of the fuel pump. It said the current issues are not the result of failed repairs but reflect developing faults arising during Mr S's use. And it points to the mileage Mr S has covered since purchase.

However, I don't consider Report B a reason to change the outcome here. In summary, I say this because:

- Report A appears to have involved a far more detailed inspection of the car to identify the root issue– for example the engineer carried out borescope inspection to identify cylinder issues while the engineer carrying out Report B was unable to do so.
- Report B appears to place a lot of emphasis on the mileage covered since purchase – but without fully addressing the early problems Mr S had with the car at low mileage (and explaining why these were likely unrelated to later issues). And without addressing Mr S's own testimony that he was having ongoing issues with misfiring cylinders and coolant (this information was in Report A which the engineer had seen).
- The overall circumstances here (including the issues I have identified earlier in my decision) support the findings in Report A more than Report B.

I want to reiterate this is by no means a clear-cut issue. I acknowledge the expertise of the engineer carrying out Report B. But in the circumstances here, on balance I am inclined to conclude in favour of Mr S here and agree that rejection is fair and reasonable.

With this in mind it is fair MF accept a rejection remedy. So MF should end the credit agreement (without adverse information) take back the car at no cost to Mr S and ensure it refunds him all rentals relating to the period he stopped using it. I am satisfied that is from

around 14 May 2025 when Report A was carried out. I know Mr S has referred to having to use other cars since then – but I wouldn't refund him for these costs as he is getting monthly rentals back from MF here – and the aim isn't to give him entirely free motoring as he always would be paying something.

Mr S has also claimed for the cost (£218.40) of Report A and the cost (£249.03) for the same garage to repair a more minor issue (fuel rail pressure sensor) on the car around that time (presumably as part of the troubleshooting for the ongoing problems). In the circumstances I think it's fair Mr S get these costs back as they are either directly related to the inherent fault or a cost that Mr S has put into the car he now won't get the benefit of.

Mr S has been caused distress and inconvenience because of this situation. He has been frustrated by having to source other means of transport and from the lack of assistance he has had from MF. To its credit I think MF acted fairly in sourcing an expert report to look into things in more detail. So I think that mitigates the situation somewhat here. In the circumstances I am not minded to award more than the £150 our investigator has recommended in compensation.

I think this is a broadly fair way to put things right. In coming to this conclusion I have factored in that it mirrors what our investigator has proposed and which Mr S has already accepted.

### **Putting things right**

As set out below.

### **My final decision**

I uphold this complaint and direct Marsh Finance Limited to:

- end the finance agreement ensuring Mr S is not liable for monthly rentals 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 S all rentals paid from 14 May 2025 to the date of settlement;
- refund Mr S £467.43 for the additional expenses as directed in my findings (above);
- pay 8% simple interest per year on all refunded amounts from the date of payment until the date of settlement;
- pay a further amount of £150 for any distress or inconvenience that's been caused due to the faulty goods;
- remove any adverse information from Mr S's credit file in relation to this agreement (if applicable).

If MF considers it should deduct tax from my interest award it should provide Mr S with a certificate of tax deduction so he may claim a refund if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 19 March 2026.

Mark Lancod  
**Ombudsman**