## complaint

Mr M complains about the quality of a car he obtained which was financed by a conditional sale agreement with Clydesdale Financial Services Limited trading as Barclays Partner Finance (BPF).

## background

Mr M acquired a used car in April 2014 which was financed by a conditional sale agreement with BPF. It had a mileage of 35,000, and was almost four years old. He experienced problems with it shortly afterwards. These included a burning smell, body work issues and oil leaks. Mr M took it in for repair on several occasions. He continued to experience problems with the car.

Mr M complained to BPF. It did not uphold his complaint. It said it had no record of him complaining to it soon after he took possession of the car. Mr M was unhappy with this response and brought a complaint to us to consider.

The adjudicator initially recommended that the complaint should be upheld. He considered that the oil leaks were present at the point of sale.

BPF is not happy to accept the adjudicator's recommendation. It says that Mr M did not raise the issue of the oil leak for eight months after the sale. His earlier visits to the dealer were about the car's bodywork and suspension. Mr M had driven the car for 13,000 miles before he complained about an oil leak.

In light of this response, the adjudicator issued a second recommendation that the complaint should not be upheld. This was on the basis that the issues raised by Mr M in 2014 had been repaired. He did not complain about an oil leak until January 2015. This was eight months after he had bought the car which led the adjudicator to consider that the present was not present at the point of sale.

Mr M does not agree. He says he sent an email to the dealer complaining about a burning smell in the car in May 2015.

## my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

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 the light of the available evidence and the wider circumstances.

Legislation says that goods should be of satisfactory quality and free from defects. I have to decide if the issues with this car were inherent defects present at the point of sale or if instead, they were as a result of wear and tear.

When Mr M acquired the car in April 2014 it was just under four years old and had driven around 35,000 miles. I think it is reasonable to expect there to be some wear and tear issues with a car of this age and mileage.

I note that Mr M experienced problems with the car soon after he acquired it. These were primarily in connection with the car's bodywork and suspension. The issues were repaired. Mr M points out that he also complained about a burning smell in May 2014. He says this shows there was a problem early on with an oil leak. I am not persuaded that this was the case. A burning smell can be caused by a number of issues.

Mr M did not complain specifically about an oil leak in the car until January 2015. If this issue had been present when he acquired the car in April 2014, I would have expected repairs to have been required much earlier. In light of this, I am not persuaded that there was a fault with the oil leak when the car was supplied to Mr M. I note that he had been able to drive the car for 13,000 miles before the repair for the oil leak was required. I do not consider this would have been possible if there had been an inherent defect in this regard in April 2014.

On balance, I don't think there are enough grounds here for me to find that Mr M should be entitled to reject the car for a refund. I realise this isn't the outcome Mr M wants and he's likely to be disappointed by my decision. But he doesn't have to accept it. And he remains free to pursue the matter by any other means that may be available to him.

**my final decision**

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 18 February 2016.

Rosemary Lloyd
**ombudsman**