

The complaint

Mr B complains that a van he acquired with credit from Go Car Credit Limited wasn't of satisfactory quality.

What happened

Mr B entered into a credit agreement with Go Car on 9 September 2021 to acquire a used van. The credit to buy the van was granted by Go Car under a hire purchase agreement. This meant Go Car was the owner and Mr B was, in essence, paying for the use of the van. As owner, Go Car was responsible for its quality and as the lender it was potentially responsible for what Mr B had been told about the van prior to entering into the agreement.

The cash price of the van was £17,994 and the total amount owed under the agreement including interest came to £30,000. Mr B paid a £2,999 deposit. The remainder was to be repaid in 48 monthly instalments of £562.53. The vehicle was over three years old when it was supplied to Mr B and had covered 56,568 miles.

Mr B experienced problems with the van and spent money on repairs and servicing. He complained to Go Car in August 2022 that the van had problems when it was supplied to him, he wasn't happy with its quality and wanted to return it. Go Car told Mr B that as it was now more than six months since the van had been supplied to him, he would need evidence to show that these issues had been present from the beginning in order to return it. Mr B provided evidence but Go Car said that it wasn't sufficient to show that there was an inherent problem with the van when it was supplied.

Go Car didn't uphold Mr B's complaint and issued a final response to him in October 2022. It said that as Mr B wished to return the van his account had been passed to its collections department to arrange a voluntary termination. And as he'd chosen to proceed with a voluntary termination, it was unable to investigate the faults he'd reported. I understand that the van remained with Mr B and he hasn't yet proceeded with the voluntary termination.

Mr B referred his complaint about the quality of the van to us. Mr B also told us that the van had been misrepresented to him because it was sold to him as having one previous owner but he'd recently found out that the previous owner was a leasing company. Mr B said he would not have entered into the agreement had he known that the van had previously been driven by multiple users with different driving styles. Mr B said that in order to resolve things he wished to have a full refund of his costs from the van, including his deposit and payments, along with compensation for Go Car's failures and lack of investigation of his complaint.

One of our investigators looked into Mr B's complaint but didn't recommend that it be upheld. They didn't find that the van was of unsatisfactory quality when supplied or that it had been misrepresented to him. Mr B wasn't happy with this response and asked for his complaint to come to an ombudsman to decide.

I issued a provisional decision on 25 October 2023 explaining why I didn't plan to uphold Mr B's complaint. I allowed time for both parties to respond with comments or to provide any further information they wished me to consider when making my final decision.

Mr B didn't agree with my provisional conclusions. He requested more time to respond in order to organise an independent inspection of the van. This happened on 22 November 2023 and Mr B provided the inspection report to us in December.

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.

Having reconsidered everything and having reviewed the further information and comments provided by Mr B, I have come to the same conclusions as before. I appreciate that this will be very disappointing news for Mr B and I am sorry I cannot provide the outcome he was hoping for. I'll explain why I am not upholding Mr B's complaint again in this final decision and refer to his response where appropriate.

What happened

Let me begin, as I did before, by acknowledging that Mr B has very strong feelings about his complaint and has provided detailed information to us in support of his view. I have reviewed all the information provided to me, even if I don't reference it directly in this document as I've focussed on setting out the reasons why I've come to my decision. I have collated some of the information provided through different sources in the table below for ease of reference and to share what I've relied on.

Date	Mileage	Issue as described by Mr B	Action	Evidence
9/09/2021	56,568		Oil, and filter service	Pre-agreement service by dealership
25/10/2021	66,800	A warning light showed that the oil level was low	Full service, replacement of front discs and brake pads	Garage invoice and receipt for £565
14/12/2021	79,491	A warning light showed low oil levels along with a generic engine management light (EML) and a warning to 'check injection'	Full service	Garage invoice and receipt £285
14/12/2021	79,491	The EML came on again just after collecting the van from the garage saying check injection	Investigated EML. Regeneration carried out on the Diesel Particulate Filter (DPF)	Garage invoice for £420
15/02/2022	?	Persistent problems with warning lights e.g. oil deterioration warning	Oil and filter change	None – carried out by Mr B himself
1/04/2022	107,521	As above	Full service	Garage invoice and receipt for £456.68
17/05/2022	?	As above	Major service – replaced engine oil, oil filter, air filter, fuel filter.	Garage invoice for £240

11/07/2022	133,201	Breakdown and recovery to garage by RAC - engine failure, ash accumulation / blocked DPF	Full service – oil and filters, wheel bearings, brake pads and shocks	RAC report, garage invoice and receipt for £1,331
22/07/2022	137,213	Breakdown and recovery by RAC – engine oil deteriorated, ash accumulation / blocked DPF	Oil and filter change, DPF reset and cleared fault codes for oil dilution - new sensor needed.	RAC report, garage invoice and receipt for £100
			DPF clean, advised oil filter needed to be reset	Invoice and receipt from DPF Experts for £240
4/08/2022	139,688	Breakdown and recovery by RAC	Cleared fault code	RAC report
17/08/2022	141,444		DPF pressure sensor and cleaner fitted	Garage invoice and receipt for £426

Was the van of satisfactory quality when supplied?

Mr B's complaint is about a van supplied under a hire agreement. He's told us that he needed the van for work and it seems he was a contractor for a company. I'm satisfied that this is a regulated agreement, and that I can look into Mr B's complaint.

When considering what's fair and reasonable, I take into account relevant law and regulations which say that under a contract such as this one, there's an implied condition that those goods will be of satisfactory quality. This doesn't necessarily mean the goods need to be fault-free but they need to be of a quality that a reasonable person would expect taking into account things like the age, price, description and mileage of the van. A hirer has the right to rescind and cancel the contract for a breach of this condition, unless the breach was so slight as to make this unreasonable.

Mr B told us that he experienced problems with the van from 25 October 2021. He dealt with these himself which involved having the van serviced at his local garage in October and December 2021, carrying out an oil change himself in February 2022, having the van serviced again in April and May 2022 and the diesel particulate filter (DPF) cleaned by a specialist company in July.

Mr B eventually complained to Go Car in August 2022 after the van had broken down several times. By that stage Mr B wanted to reject the van and have his deposit and monthly payments refunded. In order for Mr B to be able to do that, in other words in order for Mr B to cancel the contract, he needed to show that the problems with the van were existing or developing when it was supplied to him.

Go Car asked Mr B for evidence that the issue he was experiencing was present when the van was supplied. Mr B had the car for almost a year at that point and it had travelled almost 85,000 miles. Mr B provided invoices and receipts from the garage that carried out most of the work on the van along with a short report setting out their view of the issue. The report concluded that a new engine might be required in order to solve the problem, having serviced the van several times and carried out several oil changes with various oil grades. It didn't offer a view about when things might have started to go wrong. Mr B also provided invoices and receipts from the specialist DPF company, breakdown reports from national

recovery services and (undated) photographs of the van's warning lights and messages.

From Mr B's perspective all the problems he experienced with the van from October 2021 onwards were linked and due to an inherent fault with the engine. He said that this fault caused the engine oil to overheat which led to oil deterioration and triggered various warning lights including the engine management light (EML). The deteriorated oil interfered with the operation of DPF which eventually resulted in the van going into limp mode followed by engine shut-down.

Mr B recently found out that the van had previously been owned by a company who leased it to a short-term rental company. He feels that the reason the van had a worn engine from the start was because it was an ex-rental vehicle with multiple users.

Mr B said that before the van was delivered it had a full oil service and an MOT and the service interval showed that the next service was due after 24,500 miles. I understand that the van's oil quality sensor will indicate if a service is due ahead of this. Mr B said the evidence of an inherent problem with the engine began with him having to carry out a service in October after 10,200 miles because a warning light indicated that the oil levels were low when in fact they weren't. Another warning light and the EML came on in December and Mr B had the van serviced again and the DPF regenerated.

Mr B's view of what's wrong with the van isn't implausible and the information he's provided supports his view. It is true that the van was serviced more frequently than the recommended service interval of approximately 25,000 miles and I don't know why Mr B would chose to pay for these additional services without being prompted by the van's warning systems. (Mr B commented in response to my provisional decision that he had the van serviced more frequently because the oil was deteriorating faster than usual, and smelt burnt even when there was over 10,000 miles left on the service clock.)

It is also plausible, however, that the van was without issues when it was supplied, that the issues Mr B experienced in late 2021 and in 2022 did not have the same cause and that whatever was wrong with the van that led to the breakdowns in July 2022 developed at some point after supply.

Go Car disagrees that the van was of unsatisfactory quality when supplied. It said that the issues Mr B experienced in December 2021 were sorted out then as there was no mention of similar issues in the service notes from April 2022. I've reviewed the invoice provided by Mr B dated 1 April 2022 which describes a full service with oil changes: "Carry out full service replacing oil, oil filter, air filter and fuel filter, levels and tyre pressure..." There is no mention of the DPF or any issues to do with the oil or warning lights. Mr B said that the warning lights coming on became a persistent issue in 2022 and led to him carrying out an oil change himself in February 2022 with a kit he purchased. Mr B doesn't have a receipt for this and while he has provided photos of the van's warning lights and messages these are undated and I can't say with certainty that any were taken around this time.

This is the difficulty Mr B faces in evidencing that there was an issue with the van's engine when it was supplied to him. The warning light prior to the October 2021 service may have been unrelated to anything which followed and any issues present may have been resolved by changing the oil at that time. Likewise, there could have been an unrelated issue with the DPF in December 2021 which a regeneration resolved.

The van was over three years old when it was supplied to Mr B and had travelled more than 56,000 miles. So I don't think these issues were so unexpected that it automatically follows that the van wasn't of satisfactory quality on supply. The next (evidenced) service after December was 28,000 miles later in April 2022. The van broke down several times in July

and August 2022 which didn't happen in 2021 so, altogether, it's not immediately obvious that the same issues were present at these times.

Go Car also said that Mr B had travelled a distance of 23,000 miles by the 14 December 2021 which it felt was well above the average of 1,000 miles per month. This means it would have been extremely difficult to prove even in December that any fault was present or developing with the engine when the van was supplied because it's likely that the problems would have manifested much earlier if that was the case.

Mr B said that the van should be able to travel well for over 300,000 miles as claimed by the manufacturer. However, if the van had a worn engine when it was supplied, as Mr B suspects, and that was the cause of the frequent breakdowns in 2022, then it does seem likely that it would have caused more of a problem for Mr B in 2021 and he would not have managed to travel as far as he did without the van breaking down.

In response to my provisional decision Mr B had an independent inspection carried out on the van. The van was inspected on 22 November and a report produced on 5 December 2023. The inspector found that there was a fault with the van but didn't conclude that the van was of unsatisfactory quality when supplied. They found that the fault with the van was an ageing-related defect and a maintenance repair. I've quoted the report's conclusions in full below.

"We would conclude, based on the evidence available at the time of inspection, that we were able to identify faults with the vehicle. We would consider, when taking all information contained within the instructions and documentation into consideration, the vehicle has been serviced correctly; however, no information has been provided in regards to the specific oil grading used on the previous servicing. We would require clarification as to the oil grading that has been used , as this would have a contributing factor for the engine oil deterioration and causing the diesel particulate filter to be in a deteriorated state.

We would also consider that with the vehicle being of a courier-type vehicle, that the extended driving times, possible aborted regeneration, normal DPF ageing and/or potentially mixed driving styles can also contribute to the oil deterioration and the issues with the diesel particulate filter. Further investigation should be undertaken under work shop conditions for the diagnostic codes obtained, but we consider this an ageing-related defect and a maintenance repair."

I do sympathise with Mr B - I am very sorry to hear of the difficult experience he's had and appreciate that he has spent time and money on the van. However, taking everything into account, including the conclusions of the independent inspection and what Mr B said in response to my provisional decision, I can't fairly and reasonably find that it's more likely than not that the van was of unsatisfactory quality when supplied to him. It follows that I can't find it's reasonable that Mr B rejects the van and cancels the contract.

I understand that Mr B chose to voluntarily terminate the contract which limits the amount he needs to repay under it. I'd remind Go Car again that it needs to treat Mr B fairly and with forbearance regarding any outstanding debt.

Was the van misrepresented or mis-sold to Mr B?

Mr B said that he would not have entered into a hire purchase agreement for the van had he known that it had previously been driven by multiple users. He said that the van was advertised as having one previous owner and he found out recently that the previous owner, a vehicle leasing company, had leased the van to a rental company that rents out cars and vans to the general public on a daily basis.

In order for me to conclude that the van was misrepresented to Mr B I'd need to find that he had been told something about the van which wasn't true and which persuaded him to go ahead with the hire agreement. It seems to me that there was no untruth here if the van was previously owned by one company, albeit a vehicle leasing company. So I can't reasonably find the van was misrepresented to Mr B.

I'd said in my provisional decision that I thought it was likely that Mr B knew that the previous owner was a leasing company. I'd expect the van's logbook or V5C to list the previous owners. I said that if Mr B didn't want to enter into a hire purchase agreement for a vehicle with previous multiple drivers, I'd expect that seeing a leasing company listed as a previous owner would have dissuaded him from doing so or at least prompted him to query its history at that point.

In response to my provisional decision, Mr B said that the van's logbook didn't list the previous owner of the van. This was also noted in the independent inspection. I can accept that this is the case, though I still think it's more likely than not that Mr B knew that the previous owner was a lease hire company. The company's name is printed on the van's service history dated 15 August 2021, for example. Altogether, I can't find that Mr B wasn't given enough clear and fair information about the van's ownership history to make an informed decision about hiring it.

My final decision

For the reasons I've explained above, I am not upholding Mr B's complaint about Go Car Credit Limited and it doesn't have to take any action in this regard.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 5 February 2024.

Michelle Boundy
Ombudsman