

## The complaint

Mrs P complains that a car she acquired through a Hire Purchase Agreement (HPA) with RCI Financial Services Limited (RCI) needs a new engine. She would like RCI to pay for this. Or to reduce the cost she paid for the car by £7765 – 73% of the cost price of the car to correspond to its loss of value.

## What happened

Mrs P says she took out the HP agreement in January 2019 for a three-year-old car with 15234 miles on the clock. She says in January 2022 the car broke down and she was told the issue was a timing chain failure. She says she has been advised the engine had failed and needed to be replaced at a cost of around £12500. The dealership offered to contribute 25% as a goodwill gesture to the repair cost but Mrs M didn't accept this.

RCI didn't accept there was a point-of-sale issue for which it was responsible given the time that had elapsed from Mrs P getting the car to the engine failing – three years.

I issued a provisional decision in which I found:-

- Mrs P bought a used car so she might reasonably expect more wear, tear and repair issues than had she bought a new car. Having said that we expect cars to be fit for purpose at the point of sale. And Mrs P's car was only three years old with low mileage when she got it.
- When issues arise within the first six months of an agreement we usually expect the business to investigate, and if appropriate to resolve any issues found.
- When issues arise after six months, as in this case, we usually expect the consumer to provide evidence of point-of-sale issues for which the business is responsible.
- The engine issue arose three years into Mrs P's agreement so a significant time after she got the car. And she had of course used it increasing the mileage from 15234 on purchase to 49,078 when the issue arose. I appreciated the usage wasn't excessive and Mrs P showed she had the car regularly maintained, but that didn't automatically mean that the engine issue that arose was RCI's responsibility to resolve.
- The evidence Mrs P gave us from one dealership who saw the car when it broke down, stated that in its view a properly maintained engine shouldn't fail to the extent it needs replacing after 45,000 miles. It felt the problem was consistent with a timing chain issue and suggested a design or manufacturing issue. However, this company also confirmed it didn't examine the car.
- The information provided by the second dealership confirmed engine failure with piston no 1 having broken away causing damage to the engine block, it couldn't identify what caused the issue though it noted a suspicion that petrol may have been put in the tank due to a fuel smell but couldn't confirm this. It didn't carry out any further work as this wasn't authorised and it didn't feel it would shed any light on the

cause.

- RCI pointed out there could be other alternative reasons as to why the engine failed such as water ingress so asked for an independent inspection of the car. I didn't think that was unreasonable, so I asked RCI to go ahead and arrange this.
- I carefully considered the results of the independent inspection. It concluded that catastrophic engine failure occurred due to the failure of the number one connecting rod. The most likely cause of this would be down to a foreign object or fluid entering the number one combustion chamber putting excessive pressure on the number one cylinder connecting rod leading to its failure. The failure of the connecting rod would have caused the hole present in the rear engine block. The report conclusively stated the timing chain was in one piece. So, timing chain failure as indicated by one of the garages Mrs P took the car to, wouldn't have been the cause of the engine failure.
- It was frustrating that the engine hadn't been stripped down for inspection and the report did say that the failure could have occurred for multiple reasons, but the engine would need to be dismantled to confirm what exactly had failed and why.
- For me to ask RCI to cover the cost of repairs I needed to be convinced that there was a point-of-sale issue for which it is responsible. And due to the three years that elapsed from taking out the agreement to the engine failure the onus was on Mrs P to prove this. Unfortunately, I didn't feel she had done so.
- Whilst the information from both parties agreed there was engine failure no actual cause had been absolutely identified. Suggestions had been made the garages Mrs P took the car to of a design or manufacturing defect and possible timing chain failure although the latter was conclusively excluded by the independent report. I had no evidence of a design or manufacturing defect. One of the garages suggested fuel may have been put into the tank due to a fuel smell but couldn't confirm this.
- The independent report suggested the likely cause was the ingress of foreign objects or fluid – RCI consistently said that given Mrs P lived in the countryside driving through water may have caused the issue which would be consistent with the independent report's opinion that foreign objects or fluid caused the problem. I thought that was a real possibility. However, that report also stated there might be multiple other issues that caused the problem, and these could only be identified by dismantling the engine
- I considered asking RCI if it would be prepared to arrange for the engine to be dismantled for a further inspection but decided this wouldn't be reasonable. Not only would this cause further delay to dealing with Mrs P's complaint but given the time Mrs P had the car before the issue arose the onus was on her, not RCI, to show a point-of-sale issue for which RCI was responsible.
- It was frustrating not to have a definitive reason for the engine failure. In the absence of this I didn't feel the age, mileage and maintenance of the car were sufficient reason for me to say the issue must have been present or developing at the point of sale particularly when other likely causes of the problem such as water ingress were, in my view, entirely possible.

### **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.

Both RCI and Mrs P have responded to my provisional decision. RCI made no further comments for me to consider.

Mrs P , understandably, didn't accept my provisional decision and made a number of points which I have carefully considered with my responses below.

I regret Mrs P feels I didn't give due time and consideration to her complaint and would like to assure her this wasn't the case. I took some time to very carefully consider all the evidence provided by both sides. I did make it a priority to issue my provisional decision as soon as possible when the independent report had been completed, and I had time to consider its findings, I was conscious of the delay caused with my request for an independent inspection.

I appreciate Mrs P's disappointment that my provisional decision didn't accord with that of our investigator who found the timing chain had failed. Ombudsman decisions are independent , so our conclusions don't always accord with those previously made. And in this case I had the benefit of the independent inspection which was carried out after our investigator reached his view. The independent inspection conclusively ruled out timing chain failure as the timing chain was intact. Had that information been available to our investigator he may have reached a different view.

I can't comment on advice Mrs P was given by a third party that she should have been able to enjoy for at least six years. We do expect cars to be fit for purpose at the point of sale and that expectation is that cars are of durable quality. We consider age and mileage of the car at the point of sale. But we do need evidence that the issue is one that , in this case, RCI , is responsible for and unfortunately due to the time that has passed between Mrs P getting the car and the fault arising this onus was on her.

I don't accept Mrs P's assertion that RCI unduly delayed Mrs P's complaint by asking for an independent inspection to be carried out. It offered to do this and, as I understand it this offer wasn't taken up. That doesn't accord with what Mrs P now tells me, but if she was happy for an independent inspection I don't see why RCI wouldn't have carried it out at the time it offered it.

The further delay to Mrs P 's complaint was because I asked RCI to arrange the independent inspection to try to identify what caused the engine failure. I appreciate that caused further delay to Mrs P's complaint being resolved and I balanced that in my mind when I made the request to RCI.

I share Mrs P's disappointment that the engine wasn't stripped down to be inspected and I don't know why that was. As I explained in my provisional decision I did consider asking RCI to have the vehicle further examined but I felt , and still do feel, that would have been unreasonable. Given the time that had elapsed between Mrs P getting the car and the engine failure occurring the onus was on her, not RCI, to prove there was a point-of-sale issue for which RCI was responsible. Mrs P could, of course, have chosen to have her own independent inspection carried out had she wanted to.

I accept Mrs P doesn't accept water ingress might have cause the problem but that was a potential cause of engine failure identified by the independent report and I found that reasonable.

Similarly, the suggestion that the wrong fuel had been used in the car was a suggestion made by the second dealership Mrs P took the car to. I think it was reasonable to note this in my provisional decision although I also noted that the dealership said it couldn't confirm this.

Mrs P has quoted elements from one of the dealerships she took her car to with its comments that a properly maintained engine shouldn't fail so soon and suggested that there might be a design or manufacturing fault. I noted these comments in my provisional decision including that dealership hadn't actually examined the car. But I don't think Mrs P can expect me to ignore the points that don't support her case and just focus on the ones that do. To be fair to both sides I have to look at all the information provided.

I have noted Mrs P's comments over the gesture of goodwill that RCI made. Gestures of goodwill are typically made on the basis that no liability is accepted for the issue in question. As such its entirely down to RCI as to what gesture it chose to make.

I understand RCI is still prepared to offer a contribution of 25% towards the parts costs of the engine replacement. I leave it to Mrs P to decide if she wishes to take this offer up or not.

I have taken the comments Mrs P has made in response to my provisional decision very seriously. Unfortunately, I don't feel she has given me any new information to consider that would lead me to feel I should change the conclusions of my provisional decision which is that there is no evidence of a point-of-sale issue for which RCI I responsible..

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 31 July 2023.

Bridget Makins  
**Ombudsman**