

The complaint

Mr R is unhappy about the quality of a car supplied to him by RCI Financial Services Limited ("RCI") under a hire purchase agreement.

What happened

Mr R acquired a new car under a 49 month hire purchase agreement with RCI in June 2020. The car cost £25,180. Mr L paid a cash deposit of £500 and RCI made a deposit contribution of £3,375.19 towards the purchase. Under the hire purchase agreement, Mr R was required to make 48 payments of £340.42 followed by a final payment of £7,856.72 if he wanted to keep the car. Mr R acquired the car from a dealership I'll refer to as "D".

In October 2020, Mr R took the car to D as he said the car alarm would activate without prompt. D replaced the alarm and carried out a brake service. This was at no cost to Mr R.

In February 2021, Mr R complained to RCI about several issues. He mentioned that the car's alarm was faulty, parts were falling off the car, the brakes were noisy, the AdBlue sensor needed replacing, the wipers were faulty and there were issues with the oil level and parking sensors. In March 2021, RCI issued a response to Mr R's complaint. It said all the issues Mr R had complained about had been investigated and where faults were found, these were repaired or replaced under warranty at no cost to Mr R. RCI offered Mr R £150 goodwill for any inconvenience caused.

In May 2021, Mr R made a further complaint. He mentioned issues with brake noise, the car locking system, the AdBlue reading and the intermittent oil light. D removed and cleaned the brakes and confirmed the brake noise was no longer present. D couldn't find a fault with the door locking system and found no faults with the AdBlue system or the oil light. In August 2021, RCI issued a response to Mr R's complaint and said the car was of satisfactory quality.

In July 2022, Mr R complained to RCI. He mentioned the historical issues and that there were still outstanding problems with the brakes, parking sensors and the car locking system. Mr R said he wanted RCI to take the car back. RCI said Mr R hadn't taken the car to an approved dealer and so, it said it couldn't investigate Mr R's complaint further.

In September 2022, Mr R took the car to an approved dealer. He said there were issues with the gearbox as the car would jerk forward. He also said the car would unlock itself and the brakes squealed. The dealer found no issues with the gearbox, recommended a brake service and confirmed it witnessed that the car unlocked itself.

In October 2022, Mr R complained to RCI and said the car still had faults and despite speaking to the manufacturer's technical helpline and an approved dealership, no one was getting back to him. He said the locking mechanism on the doors wasn't working as it should and he mentioned that the windows weren't operating correctly.

RCI issued its response to Mr R's complaint and said in August 2022, it had advised Mr R to book the car in with an approved dealership for further investigation. However, RCI said the approved dealer confirmed it hadn't seen the car since May 2022. RCI asked Mr R to book the car in with an approved dealer, so an investigation could be undertaken and a diagnosis and/or repairs be carried out.

Mr R responded to RCI and said he had provided evidence of the fault and he had since had the car seen by a garage who confirmed the fault with the doors locking was present. Mr R also mentioned other previous and current outstanding faults with the car. Mr R confirmed the issue with the window had been repaired.

RCI said it would consider a repair for the locking fault under the warranty, but wouldn't support rejection of the car. Mr R said he was unhappy and mentioned previous issues that had occurred with the car. RCI said these issues had already been considered by this service. RCI told Mr R if it did agree that Mr R should be entitled to reject the car, it would make reasonable deductions for Mr R's usage of the car.

Unhappy with this, Mr R referred his complaint to this service. He reiterated his complaint. To put things right, Mr R said he wanted RCI to refund any costs he had incurred and to partially refund the cost of the car.

Our investigator looked into the complaint but didn't think RCI had acted fairly. He said the car had numerous problems since it was supplied to Mr R and so, he didn't think the car supplied to Mr R by RCI was of satisfactory quality. He said Mr R should be able to reject the car, but given Mr R had sold the car and settled the finance in March 2023, he couldn't make this recommendation. So our investigator asked Mr R to provide him with evidence of any costs he had incurred as a result of the faults with the car. Mr R didn't provide any information in relation to the settlement amount or the additional costs. So our investigator didn't consider this. However, our investigator did consider that Mr R was likely to have incurred some distress and inconvenience as a result of the car being faulty. Our investigator recommended that RCI should pay Mr R £300 compensation, in addition to the £150 it had already offered him in March 2021.

Mr R responded and said he would have been better off keeping the car as he would have received his deposit of around £3,875 refunded with applicable interest. He said he hadn't received the £150 RCI had previously offered and he didn't think that £300 further compensation was sufficient, given that he spent that much going to and from dealerships.

RCI responded and said it would only agree to pay Mr R a total of £300. It said it no longer agreed to pay Mr R the previous £150 it had offered in March 2021, as that complaint wasn't upheld by this service.

Our investigator said Mr R hadn't confirmed how much he sold the car for. So he couldn't consider what part of the deposit should be returned to Mr R following the settlement of the car. He said Mr R should contact RCI if he wanted to discuss its previous offer to pay him £150 compensation, as this related to a previous complaint this service had already considered.

Mr R responded and provided information to show what the car had sold for and the outstanding finance. This resulted in Mr R receiving a payment of £1,280.76 from the sale. The mileage at the time the car was sold was 55,000. Mr R also provided invoices for loan car insurance and outlined his travel expenses.

Our investigator reviewed these costs and wrote to Mr R and RCI. He said he had reviewed his position and whilst he didn't think Mr R should receive reimbursement for expected costs such as services and general maintenance of the car, he did think Mr R should receive reimbursement for his travel costs when these related to travel as a result of the faults with the car. This was a total of £98. He also said he thought RCI should refund Mr R £2,594.43 which is the difference between the deposit and the amount Mr R received from the sale proceeds. He also said RCI should pay Mr R £300 for the distress and inconvenience caused.

RCI disagreed. It said that Mr R only paid £500 towards the deposit. It said the remaining amount of £3,375.19 was paid through a dealer contribution and so it wouldn't refund this amount to him. It said it wasn't willing to pay any amounts to Mr R, as he received £1,280.76

from the sale of the car. It said Mr R only paid £500 and so he benefitted from an additional £780.76.

Our investigator reviewed his position and told Mr R and RCI he didn't think it was fair for RCI to pay any additional amounts to Mr R. He said the amount Mr R had received from the proceeds of the sale was more than he would have recommended.

Mr R disagreed. He said the profit shouldn't be taken into account as this was due to a change in times and due to cars being more valuable at the time of sale. Mr R said he was under the impression he had paid the full deposit amount. He said RCI hadn't worked within legal framework, it hadn't supplied him with information he had requested, he said he had significant financial loss as a result of having the car for 29 months, as it was at risk of being stolen and he said the interest, deposit and other financial costs he incurred should be refunded to him. He said to settle his complaint, RCI should pay him £1,421.64.

As Mr R remains in disagreement, the complaint has been passed to me to decide.

I'm aware Mr R has previously complained to us about some of the matters he's unhappy about. I've not reinvestigated what the investigator said at the time about the faults in their assessment of the previous complaint. But I've nonetheless kept these in mind when considering what's fair and reasonable in all the circumstances of this current complaint.

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.

Where evidence is incomplete, inconsistent or contradictory, I reach my view on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available evidence and wider circumstances.

I've read and considered the whole file and acknowledge that Mr R has raised a number of different complaint points. I've concentrated on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it – but because I don't think I need to comment on it in order to reach what I think is the right outcome. The rules of this service allow me to do this.

What I need to decide in this case is whether the car supplied to Mr R was of satisfactory quality. If I don't think it was, I'll need to think what's fair, if anything, to put things right.

The finance agreement in this case is a regulated hire purchase agreement. So our service is able to consider complaints relating to it. RCI is the supplier of the car under this type of agreement and so is responsible for dealing with a complaint about its quality.

The Consumer Rights Act 2015 covers hire purchase agreements. Under a hire purchase agreement, there are implied conditions that the goods supplied will be of satisfactory quality. Satisfactory quality is what a reasonable person would expect, considering any relevant factors – such as the age, price, mileage and description, amongst others.

The car Mr R acquired was brand new. And he was paying around £340 a month to lease it. So, I think a reasonable person would have high standards for the condition of the car when it was supplied and would have expected trouble free motoring for a significant time.

In this case, Mr R initially complained about the car door unlocking itself in March 2021. This was around nine months after the car was supplied to him, during which he had been able to cover around 11,850 miles in the car. However D couldn't replicate this issue at the time and so, no fault was found. Mr R also provided some videos at the time, but these videos didn't substantiate that the car was unlocking itself. It was thought that there was insufficient supporting information to demonstrate the fault at the time. Since then, Mr R has complained about the car locking system again. He said the car would randomly unlock itself.

I've been provided with a job sheet from May 2022 that confirms that the car's near side front door lock was replaced. However, the job sheet doesn't confirm why the lock has been replaced. A further job sheet from September 2022 has been provided which confirms Mr R has complained about the car unlocking itself overnight. The dealership accepts it witnessed the car unlocking itself.

Having carefully considered this, I'm satisfied the car supplied to Mr R had a fault with the locking system, as an approved dealer witnessed the car unlocking itself without prompt. I now need to consider whether this fault makes the car of unsatisfactory quality.

The technician from the approved dealer in September 2022 said, *"Customer left vehicle out the front of the dealership – the vehicle locked and when [name] and the customer went out to the vehicle it was unlocked. – Service advisor onsite did witness issue with it unlocking by itself but has not later faulted onsite through tests"*. The technician kept the car overnight and found that the car was always locked when it was checked. It was noted that the fault couldn't be replicated again.

I've reviewed the historic testimony from Mr R about the car locking system and the associated job sheets. Having done so, I'm persuaded that the car has an intermittent fault. I'm satisfied the issue has occurred since May 2021, as Mr R has repeatedly complained about this and this is documented. Whilst on most occasions, the fault wasn't replicated, an approved dealer has documented that the fault was witnessed.

The first documented instance of Mr R complaining about the car locking system is in May 2021. At the time, Mr R had travelled around 15,000 miles in the car. He complained about the same fault a number of times. In September 2022, when the fault was witnessed, Mr R had been able to travel around 34,000 miles in the car.

Having considered that the car was brand new at the time it was supplied, this fault initially presented itself within 11 months of the car being supplied to Mr R, the car cost around £25,000 and the faults occurred with minimal use from Mr R, I don't think that a reasonable person would expect the car to become faulty so soon. I also think this considering that there were a number of issues with various parts of the car, prior to this fault presenting itself, which resulted in parts of the car being repaired or replaced. All of these issues persuade me that overall the car was not of satisfactory quality when it was supplied to Mr R.

I also acknowledge that Mr R has complained about other faults which he says occurred to his car. It's accepted by both parties that some of these faults occurred and have been rectified. For the other outstanding issues Mr R has complained about, I've not been provided with any information to persuade me there is a fault which makes the car of unsatisfactory quality. So I haven't focused on these issues.

I've gone on to think about what RCI needs to do to put things right.

I'm satisfied that Mr R was entitled to reject the car when the intermittent issue with the car locking system was identified. I think this is a proportionate and fair remedy given all the circumstances. I appreciate previous faults took place, but Mr R appears to have accepted repairs for these issues at the time. As he accepted repairs and these repairs were completed within a reasonable time and without significant inconvenience to him, Mr R was unable to then reject the car.

Mr R no longer has the car, so I need to consider what a fair remedy is given the circumstances. If Mr R still had the car, I would have likely directed RCI to take back the car, refund Mr R's deposit, pay any consequential losses as a result of the faults with the car and consider whether RCI caused any distress or inconvenience to Mr R. So, I've considered what this remedy would have likely resulted in and whether RCI need to do anything further.

The deposit paid for the car was a total of £3,875.19. However this consisted of a deposit contribution from RCI of £3,375.19. Mr R paid £500 towards the deposit amount. So this means Mr R wouldn't receive more than £500, if I consider that RCI need to refund the

deposit. This is because Mr R didn't pay the deposit contribution of £3,375.19 and so he didn't incur this loss. Mr R has said he was under the impression he paid the full deposit amount, however there is no supporting information to suggest this.

Mr R sold the car in March 2023. He has provided a sales invoice to show what the car sold for. The invoice confirms that Mr R had outstanding finance but the sale price of the car was more than the outstanding finance. So, Mr R received a payment of £1,280.76 from the sale of the car. Mr R says this shouldn't be taken into account but I disagree. Mr R has maintained that he should have been able to reject the car. And if Mr R hadn't sold the car and instead been able to reject the car, he wouldn't have received this payment of £1,280.76, as he would have handed the car back to RCI. Instead he would have only likely received a payment of £500 to represent the deposit he paid. In light of this, I'm satisfied that Mr R has received an additional £780.76 above his £500 deposit from the sale of the car. I've kept this in mind when considering the other losses Mr R has complained about.

I appreciate that on some occasions, Mr R's use of the car may have been impaired due to the numerous different faults. Mr R reported these issues quickly and was given a courtesy car whilst investigations or repairs were carried out. So whilst I think Mr R likely had some impaired use of the car on some occasions, I don't consider that this warrants any refund of any portion of any of the monthly payments Mr R made. Even if I did, this would be a nominal amount which would be significantly less than the additional monies Mr R has received from the sale of the car.

I also note that Mr R was also able to travel 55,000 miles in the car by the time he sold it. Given that the car was less than three years old at the time of the sale, I'm satisfied that Mr R had significant use of the car. And so, in light of this, I don't think RCI need to refund any monthly payments, as Mr R has benefitted from continuing to use the car. This also means that I don't think RCI need to refund any associated costs Mr R incurred from making use of the car, such as his car insurance or road tax, as Mr R was required to pay these costs as a result of continuing to use the car.

I've mentioned that Mr R was provided with a courtesy car when issues with his cars were being investigated. When Mr R was provided with a courtesy car, he says he paid insurance costs of £19.99 for each courtesy car. I can see that on some of the occasions that a courtesy car was provided, this was provided due to routine maintenance such as a service or for wear and tear faults. I don't consider Mr R should receive the insurance costs back for these occasions. And for other occasions, the invoices show costs of £0 or £19.99 for the courtesy car insurance, but there is an overall cost of £0. Mr R says the invoices show £0 as he paid the £19.99 insurance costs before he collected the courtesy cars. However, I can only see one occasion in late August 2022, where Mr R has provided supporting information to show that he paid loan car insurance. This was for the occasion where the fault was found with the car locking system. I don't think Mr R should be required to pay this £19.99 charge for that occasion.

Mr R has also mentioned costs for his petrol. He has provided his bank statements to demonstrate these costs. As with the courtesy car insurance, I don't think Mr R should be reimbursed for fuel costs due to routine maintenance such as a service or for wear and tear issues. For the occasions Mr R has incurred fuel costs outside of this, I don't think it is fair for Mr R to pay these fuel costs. Mr R has calculated at £0.25p per mile. In the circumstances, I think this is a fair amount for the six occasions that Mr R was required to visit a dealer to repair faults which made the car of unsatisfactory quality. This amounts to £98.

Finally, I've considered that Mr R was caused distress and inconvenience as a result of the issues he encountered with the car. He's said the car locking system resulted in his child being locked in the car on one occasion. I appreciate this would have caused significant distress to Mr R. I also acknowledge that Mr R had to make numerous trips, over a three year period, to a dealer to repair faults which has resulted in him having to take time out of his day to make these trips. Mr R shouldn't have had to make these trips had the car been of

satisfactory quality. And so, I think RCI should pay Mr R £300 to reflect the distress and inconvenience caused.

The total amount I think Mr R should be reimbursed is £417.99. However, as I've explained above, Mr R received £780.76 by selling the car in March 2023. Mr R wouldn't have been entitled to this amount had he rejected the car and returned it to RCI. So I don't consider that Mr R has incurred a loss as a result of the car being unsatisfactory quality. And so, it follows that I don't think RCI needs to do anything further.

My final decision

I do not uphold Mr R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 14 November 2023.

Sonia Ahmed
Ombudsman