

The complaint

Ms G complains that a car acquired with finance from Creation Consumer Finance Ltd ("Creation") wasn't of satisfactory quality.

What happened

In January 2022 Ms G was supplied with a car and entered into a hire purchase agreement with Creation. At the point of supply the car was around 5 years old and had covered around 36,000 miles.

In June 2023 the car broke down. It was recovered to a garage who found that the coolant hose had broken off. A new coolant hose was fitted. The garage carried out a test and found CO2 in the engine and diagnosed an engine crack or warp. The garage lined the engine head as a remedial repair.

The car broke down again a few days later. A breakdown organisation came out and cleaned the spark plugs. Ms G managed to get home but the next day the car wouldn't start. Ms G replaced the spark plugs but still couldn't get the car to start.

Ms G complained to Creation. It advised Ms G to obtain an independent inspection report.

The car was inspected in September 2023. The engineer found that the engine was low in compression with a smell of unburnt fuel from the exhaust system. Fault codes were retrieved in relation to cylinder 2 and 4 misfires and the camshaft sensor. The engineer stated that because the car had been in use for 16 months and had covered 16,500 miles, he didn't consider that the faults would've been present or developing at the point of supply.

Based on the findings of the independent inspection report, Creation didn't uphold Ms G's complaint.

Ms G remained unhappy and brought her complaint to this service. She wants to reject the car.

Our investigator didn't uphold the complaint. He said there wasn't any evidence to show that the car was faulty at the point of supply. He also said that given the time elapsed since the point of supply and the mileage covered since the point of supply, he would have expected the fault to have occurred sooner if it had been present at the point of supply.

Ms G didn't agree. She didn't think it was reasonable to expect to replace the engine after 16 months and said she did think the car was durable because it hadn't lasted the term of the finance agreement.

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.

The Consumer Rights Act 2015 is relevant to this complaint. This says that goods must be of

satisfactory quality when supplied. Cars are of satisfactory quality if they are of a standard that a reasonable person would regard as acceptable, taking into account factors such as the age and mileage of the car and the price paid. The legislation says that the quality of the goods includes their general state and condition, as well as things like fitness for purpose, appearance and finish, freedom from minor defects, safety and durability.

The car supplied to Ms G was around 5 years old and had covered around 36,000 miles. So it's reasonable to expect that the car would already have suffered some wear and tear and that it was likely to require repairs sooner than, say, a brand new car.

Under the Consumer Rights Act 2015, where a fault occurs with a car within the first 6 months of the point of supply, it's assumed that the fault was present or developing at the point of supply and it's generally up to the business to put things right. The business is allowed one opportunity to repair the fault. If the repair isn't successful, the consumer can reject the car.

After 6 months the burden of proof is reversed and it's up to the consumer to show that the fault was present or developing at the point of supply.

I've reviewed the available evidence about the issues which Ms G experienced with the car. Based on what I've seen, I'm satisfied that the car has a fault. I say this because the independent inspection shows that the engine has lost compression.

I've gone on to consider whether the car was of satisfactory quality when it was supplied.

I've reviewed the independent inspection report. This says that the engine would need to be dismantled in order to identify the root cause of the fault. It also states that the fault would not have been present or developing at the point of supply, because if it had been, Ms G wouldn't have been able to cover the mileage she'd covered.

The independent inspection report is clear in its conclusions that the fault wasn't present or developing at the point of supply. I haven't seen any other mechanical or engineering evidence to challenge the conclusions in the independent inspection report.

I've considered the point that Ms G has raised about durability. There's no general rule that a car should remain fault free for the duration of the finance agreement. However, durability is one aspect of satisfactory quality, so I need to consider whether the engine failed prematurely. The difficulty in this case is that the cause of the loss of compression hasn't been established. The independent inspection report states that loss of compression can be due to many things, with the most common being poor valve sealing, cylinder head gasket leaks, piston cracks or piston ring breakages. Without a clear diagnosis of what has caused the engine to fail on Ms G's car, I'm unable to say whether a particular component part has failed prematurely. So I don't have enough evidence to say that the car wasn't sufficiently durable.

For these reasons, I'm unable to say that the car wasn't of satisfactory quality when it was supplied to Ms G. So I won't be asking Creation to do anything further.

Ms G has raised some points about the length of the remaining MOT, the tyres and the brakes. I haven't seen any evidence that these issues are linked to the current fault with the engine. Nor can I see that Ms G raised these issues when she made her complaint to Creation. If Ms G believes that the dealership made a misrepresentation about the car prior to the point of supply, she will need to raise this as a separate complaint with Creation and allow them to investigate.

For the reasons I've given, I'm unable to uphold this complaint.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms G to accept or reject my decision before 22 December 2023.

Emma Davy
Ombudsman