

## The complaint

Mr H complains about the issues he experienced in relation to a car that was supplied through a hire purchase agreement with Creation Consumer Finance Ltd (Creation).

## What happened

The circumstances surrounding this complaint and my initial findings were set out in my provisional decision which said:

*In May 2022, Mr H acquired a used car through a hire purchase agreement from Creation. The cash price of the car was £33,200. Mr H paid a deposit of £4,000, so the total amount financed on the agreement was £29,200 payable over 48 monthly repayments of £494.06 with a final optional payment of £13,488.*

*Mr H said that within two weeks of acquiring the car, he experienced issues with the battery so had to have it replaced. Mr H said he experienced delays in receiving the logbook from the dealership and was told they'd lost it and had to order a new one. He said when he received the logbook it had the wrong name on it, and incorrect information relating to previous owners than what was advertised. Mr H said he didn't receive the full-service history either.*

*Mr H also said he received poor customer service from Creation, so in August 2022 he complained to them about the issues with the car, the logbook and their poor service.*

*In November 2022, Creation provided their final response to Mr H's complaint. Creation didn't uphold the complaint because they said they weren't provided with any evidence that the faults were present at the point of supply.*

*Mr H responded to Creation saying the main point of his complaint was that the logbook had the incorrect details, which could affect his insurance.*

*Unhappy with the response from Creation, Mr H brought his complaint to our service for investigation.*

*In March 2023 our investigator issued their view, upholding Mr H's complaint on the basis that they felt the car wasn't of satisfactory quality when it was supplied to him. Our investigator recommended that Creation facilitate a rejection of the car, refunding his deposit and some monthly repayments and to pay £200 in compensation for the inconvenience caused.*

*Mr H accepted our investigator's view, however before Creation responded, Mr H advised that he'd sold the car and had settled his finance agreement. Our investigator issued a further view revising the redress as the car had been sold. The recommendation was as below:*

- *refund Mr H's deposit contribution of £4,000*
- *reimburse Mr H £1,191.86 which is the difference between the settlement amount and the sale price of the car*

- reimburse Mr H the transaction fee charge amounting to £74.99
- refund to Mr H, all the monthly payments for the period from 10 October 2022 to the date of settlement as Mr H reasonably stopped using the car at this point – if any the payments during this period weren't paid, then those payments should be waived;
- pay Mr H 8% simple yearly interest on all refunded amounts from the date of payment until the date of settlement
- pay Mr H a further amount of £200 for any trouble and upset that's been caused due to the faulty goods
- remove any adverse information from Mr H's credit file in relation to the agreement (if any).

*Mr H accepted the revised recommendations, but Creation didn't respond. So, the complaint has been passed on to me for a final decision.*

I sent Mr H and Creation my provisional decision on 18 September 2023. I explained why I didn't think the complaint should be upheld. The key parts of my provisional findings are copied below:

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

*In considering what is fair and reasonable, I've thought about all the evidence and information provided afresh and the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.*

*I've read and considered the whole file, but I'll concentrate my comments 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 agreement in this case is a regulated hire purchase agreement. As such, this service is able to consider complaints relating to it. Creation is also the supplier of the goods under this agreement, and is responsible for a complaint about their quality.*

*The Consumer Rights Act 2015 (CRA) is relevant in this case. It says that under a contract to supply goods, there is an implied term that "the quality of the goods is satisfactory, fit for purpose and as described". To be considered as satisfactory, the CRA says the goods need to meet the standard that a reasonable person would consider satisfactory, considering any description of the goods, the price and all the other relevant circumstances. The CRA also explains the durability of goods is part of satisfactory quality.*

*So, it seems likely that in a case involving a car, the other relevant circumstances a court would consider might include things like the age and mileage at the time of sale and the vehicle's history.*

*Here, the car was acquired used, with 32,821 miles. So, I think it's fair to say that a reasonable person would expect the level of quality to be less than that of a new, and less road-worn car, and that parts of it may require maintenance or servicing sooner than if it was a new car.*

*Having said that, the car was priced at £33,200 which isn't insignificant. It also wasn't a particularly old vehicle. So, I think it is fair to say that a reasonable person would expect it could be used free from any major issues for a reasonable period of time.*

*From the information provided I'm persuaded there were some issues with the car. The images provided by Mr H persuades me the issues were relating to the fault codes. Having considered the car had some issues, I've considered whether it was of satisfactory quality at the time of supply. I've also considered whether Creation needs to do anything in relation to the incorrect information on the logbook.*

#### *logbook*

*Mr H told our case handler that he wasn't happy that he was provided with a logbook with the wrong details on it. Mr H said the previous owner's information was incorrect as was the details of the current owner. Although I can see that the logbook was in a different name from Mr H's, I've not seen any evidence of the number of previous owners to determine that it was incorrect. Having said that, Mr H advised he was reluctant to return the logbook as he didn't trust an accurate one would be reissued.*

*I think it's reasonable that Mr H should give the dealer an opportunity to resolve the issue, but in this instance, it appears Mr H didn't do so. In any case as the car has now been sold on, I don't see that Creation can do anything further about this issue. So, in the circumstances I won't be instructing Creation to take any action in relation to this issue. satisfactory quality.*

*In their view, our investigator concluded that on balance they believed the car wasn't of satisfactory quality at the point of supply, and arrived at that outcome from the information on file. However, I'm not in agreement with our investigator's outcome, because I've seen no evidence of the faults.*

*Although Mr H has provided images of fault codes he says were identified by a local garage. The images weren't accompanied by specific vehicle information or dates. Mr H appears to have taken photos of the fault codes screen but hasn't provided any expert diagnostics or commentary about the issues from the garage. I also have no expert report advising what the issues were or that they'd been investigated.*

*The only expert commentary I've seen is from an email sent from the local garage in March 2023, advising they couldn't pinpoint the problem due to an incompatibility with their equipment and that the issue may be software related. However, this in itself doesn't confirm that a problem exists.*

*Mr H said the fault codes were identified in September 2022, however during a phone call with our case handler, in December 2022, Mr H said the car was running fine and was in immaculate condition, but that he was scared to drive it. Mr H told our case handler that the weight of the claim wasn't the quality, but about the logbook being recorded in a different name. And in response to Creation's final response Mr H sent an email to Creation advising that he wasn't concerned about the faults with the car, more that the car was losing value and that the logbook had the incorrect details. Having considered this, I think there's some conflicting information over whether Mr H considered the car to be faulty.*

*I also haven't seen any evidence to support what Mr H has said about not using the car. During the phone conversation with our case handler in December 2022, Mr H said he only used the car to keep the battery running. Mr H said he'd also purchased another car because he wasn't using this one.*

*The latest MOT information from 20 April 2023 shows a recorded mileage of 41,394, which is about 10,000 miles more than when it was supplied to him. As the evidence provided shows that Mr H sold the car on 25 April 2023, I'm satisfied that Mr H had fair use of the car over the 12 months that he owned it. It also supports that the car was running without any significant faults.*

*All things considered, and from the information provided, although I can see some fault codes were present, I don't have any evidence to show the codes were investigated and verified. And based on what Mr H has told our investigator, and the usage of the car whilst in his possession, I'm persuaded the car was of satisfactory quality when it was supplied to Mr H. So, I won't be asking Creation to take any action in relation to this complaint.*

I invited both parties to make any further comments.

Creation responded to say that they accepted my provisional decision. Mr H responded to say he had nothing further to add.

Now both sides have had an opportunity to comment, I can go ahead with my final decision.

### **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.

As neither party has provided any further comments or information for me to consider in relation to my provisional findings, I see no reason to depart from it.

I still consider my provisional decision to be fair and reasonable in the circumstances. Neither party has added anything which gives me cause to change these. Therefore, for the reasons as set out in my provisional decision, I'm satisfied that the car was of satisfactory quality when it was supplied to Mr H. So, my final decision is the same.

I recognise that this decision is likely to be disappointing for Mr H, however I can assure him that I've considered all the evidence provided and believe on balance that my provisional findings are fair in the circumstances.

### **My final decision**

Having thought about everything above, along with what's fair and reasonable, my final decision is that I don't uphold Mr H's complaint about Creation Consumer Finance Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 27 October 2023.

Benjamin John  
**Ombudsman**