

The complaint

Mr B is unhappy that a car supplied to him under a hire purchase agreement with Oodle Financial Services Limited was of an unsatisfactory quality.

What happened

On 16 December 2022, Mr B was supplied with a used car through a hire purchase agreement with Oodle. The agreement was for £21,990 over 60 months; with an initial payment of £561.08, 58 monthly payments of £511.08 and a final payment of £561.08. At the time of supply, the car was around seven years and nine months old, and the MOT record for 18 October 2022 shows the car had done 99,292 miles.

In May 2023, the car broke down and Mr B had it recovered to a local garage. The garage told him the engine had seized, so he raised a complaint with Oodle. Oodle arranged for an independent engineer to inspect the car, and the inspector said that the engine failure was 'consistent with a failed timing chain'. And the engineer said this was as a result of wear and tear and not something that was present or developing at the point of supply.

Based on the independent engineer's report, Oodle didn't uphold Mr B's complaint. Mr B wasn't happy with this, and he brought his complaint to the Financial Ombudsman Service for investigation. He also provided a subsequent report which said the issue with the engine was down to the oil pump, not the timing chain.

After reviewing the evidence, our investigator was satisfied there was a fault with the car. However, they didn't think the engine failed because of a fault that was present or developing at the point of supply, so they didn't think Oodle needed to do anything more.

Mr B didn't agree with the investigator. He said that the onus is on Oodle to prove the car was of a satisfactory quality when it was supplied to him, and it wasn't down to him to prove it wasn't. He said he'd paid £22,000 for a car that had recently been serviced, so should've been *"a standard of as good as it could possibly be."* Given this, he didn't think it was reasonable for the oil pump to have failed, especially as *"it is designed to last the lifetime of the vehicle."*

Mr B also explained that he was unhappy with the service carried out on the car before it was supplied, and that the car didn't have the full service history he was told it was supplied with

Because Mr B didn't agree, this matter has been passed to me to make a 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.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't

believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mr B was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

The Consumer Rights Act 2015 ('CRA') says, amongst other things, that the car should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of goods, Oodle are responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history and its durability. Durability means that the components of the car must last a reasonable amount of time.

The CRA also implies that goods must conform to contract within the first six months. So, where a fault is identified within the first six months, it's assumed the fault was present when the car was supplied, unless Oodle can show otherwise. But, where a fault is identified after the first six months, the CRA implies that it's for Mr B to show it was present when the car was supplied.

So, if I thought the car was faulty when Mr B took possession of it, or that the car wasn't sufficiently durable, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask Oodle to put this right.

I've seen a report dated 19 May 2023 from an independent garage. While this doesn't state the mileage on the car at the time, it does say *"engine seized will not crank over."* There is nothing on this report that indicates the cause of the engine seizure. However, given that the engine has seized, it's reasonable to conclude the car couldn't be driven after this date.

I've also seen a copy of the independent engineer's report, dated 4 July 2023. The mileage at the time of this report wasn't specified. However, in a follow up report dated 24 July 2023, the engineer indicated the mileage at the time of the inspection was around 106,200 miles.

After inspecting the car, the engineer concluded that the fault was consistent with a failed timing chain. However, the engineer didn't think this fault was present or developing when the car was supplied to Mr B. The engineer also confirmed this in the follow up report of 24 July 2023.

In their initial report of 4 July 2023, the engineer confirmed their duty is to the courts, not to the person who instructed or paid for the report. And, in a further follow up letter dated 31 July 2023, the engineer clarified that the report produced was compliant with the Civil Procedure Rules and that *"we are bound legally to provide a balanced report which takes into consideration [Mr B's] position, the garages and the finance house."* As such, I'm satisfied it's reasonable to take the engineer's opinion into consideration.

Finally, I've seen the report that Mr B arranged. This is dated 2 August 2023 and confirms the mileage as 106,254 miles – the same as indicated by the independent engineer in the 24 July 2023 follow up report. As such, I'm satisfied that the car travelled around 6,500 to 7,000 miles between supply and engine failure.

This report says the timing chain was intact but there was a large volume of metal filings in the oil pump. As such, the mechanic said there had been a “*suspected oil pump failure*” and the engine needed replacement. However, the mechanic doesn’t comment on either what caused this suspected failure, or on whether the cause was present or developing when the car was supplied to Mr B.

Based on what I’ve seen, I’m satisfied there was a fault with the car that caused the engine to seize. And, while the exact cause of the fault is unknown - the independent engineer said it was consistent with a failed timing chain, while the mechanic suspected it was a failed oil pump – I don’t consider this to be relevant. What I do consider important is whether the failure of the engine resulted from normal in-service wear and tear or whether it was because of a fault that was present or developing at the point of supply. And this is important as it’s key to whether the car was of a satisfactory quality under the CRA.

I would also like to note at this point that a failed timing chain doesn’t necessarily mean the timing chain has broken. The chain itself is part of a mechanism that includes cogs and tensioners, which are all lubricated by the oil in the engine. So, the lack of oil in the engine caused by the oil pump failure could easily result in part of the timing chain mechanism failing, and an overall engine seizure. As such, I don’t consider the cause of failure identified by the independent engineer to be contradictory to the cause of failure identified by the mechanic, and I’m satisfied these are both valid opinions on the same fault and failure.

Turning to whether the fault was present at the point of supply, the independent engineer says that it wasn’t. And the mechanic doesn’t say that it was. The car had travelled more than 100,000 miles when the engine failed and, despite Mr B saying that parts are expected to last the lifetime of the car, I don’t agree with this. Car engines operate at high rotational speeds and at high temperatures, and it’s reasonable that the component parts, however well built, will wear over time. And I think any reasonable person would expect to have to replace major items, such as an oil pump or timing chain, in a car of this age and mileage.

The mechanics report of 2 August 2023 says that a failed oil pump would cause the engine to overheat and seize. However, this would be a sudden failure due to an immediate lack of oil lubricating the engine, and not something that builds up over time due to, for example, the car running slightly hot as Mr B has said it did. Given this, I’m satisfied that if the oil pump was failing when the car was supplied to Mr B, then the engine would’ve seized sooner than approaching 7,000 miles and around five months since supply. As such, I’m not satisfied the car was of an unsatisfactory quality when it was supplied.

Turning to the service history, Mr B has said the car should’ve been serviced every year or 10,000 miles, whichever is sooner, according to the manufacturer’s recommendations. He’s provided evidence of the service history which shows the following:

- service on 21 September 2016 at 13,163 miles
- service on 9 August 2017 at 29,269 miles
- service on 1 November 2017 at 31,696 miles
- service on 25 April 2018 at 38,369 miles
- service on 16 August 2018 at 46,791 miles
- service on 21 June 2019 at 67,477 miles
- service on 18 November 2019 at 78,743 miles
- service on 29 September 2020 at 89,191 miles
- service on 22 June 2021 at 93,948 miles
- service on 20 October 2021 at 95,988 miles

He's also shown that the engine oil, microfilter, and recirculated air cleaner were replaced 1,677 miles after the service schedule said they should've been. This relates to the service that took place on 29 September 2020.

The car was first registered on 29 March 2015. I don't think that any reasonable person would expect a full service history to show the car was serviced exactly in line with the manufacturer's guidelines, in this case a service took place on the exact anniversary of the last service, or when the car had done exactly 10,000 miles from the last service. And I think a reasonable interpretation of a full service history would be that the car has been serviced *generally* in line with the manufacturer's guidelines.

While I haven't seen anything to show me that the car was sold with a full service history, based on what I've seen I'm satisfied the service history was generally in line with the manufacturer's guidelines i.e., the car was serviced at least once a year from 2016 (when it was around a year old), sometimes more than once a year, and that it's had roughly one service for every 10,000 miles (the car was serviced ten times and had done less than 100,000 miles when it was supplied).

Mr B has shown that the service in September 2020 was done 1,677 miles later than recommended, and that this meant there was a delayed oil change. While the fault with the car was oil related, there are two recorded services after this. As such, I'm not satisfied that this late oil change was the sole cause of the engine failure. So, it doesn't convince me the fault that resulted in the engine failure was present when the car was supplied to Mr B.

There's no evidence that the car was serviced immediately before it was supplied to Mr B, and this is something that would've been clear to him when he was provided with the car, and during the five months before the engine failed. I've not seen anything to show me that Mr B ever raised this point with either the dealership or Oodle before the engine failed; or that he took any action to either have this missing service done, or have the car serviced when it had done 100,000 miles (the next manufacturer recommended service interval).

Given this, I think it's more likely than not that Mr B would've still chosen the car, even if it had been advertised as having an incomplete service history (and without site of the advert, I can't say what, if anything, was said about the service history).

Taking all the above into consideration, and while I appreciate this will come as a disappointment for Mr B, I don't think Oodle have acted unfairly or unreasonably, and I won't be asking them to do anything more.

My final decision

For the reasons explained, I don't uphold Mr B's complaint about Oodle Financial Services Limited

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 7 February 2024.

Andrew Burford
Ombudsman