

The complaint

Mr J complains about a car he acquired through a hire purchase agreement with AutoMoney Limited. The car has experienced mechanical issues that resulted in Mr J being unable to use the car. Mr J would like to end his motor finance agreement with AutoMoney.

What happened

In November 2022 Mr J acquired a used car. The car cost just under £20,000 and the majority of the cost was funded through a hire purchase agreement with AutoMoney. Within a few weeks of having the car it broke down. It was initially inspected by a local garage, and was then returned to the original dealership who sold the car to Mr J.

Mr J complained to AutoMoney about the car breaking down, but it rejected his complaint and referred to what it had been told by the supplying dealership. This was that the car had been miss fuelled, petrol had been mistakenly put into the car instead of the required diesel. It did not therefore consider the car's failure was a result of any underlying issues, but was however caused by incorrect fuel being added to the car. A subsequent inspection, arranged by AutoMoney, later concluded that miss fuelling was the likely cause of the current issues with the car.

Mr J strongly disputes putting the wrong fuel into the car and has provided evidence which he says shows he correctly put diesel into the car several times since he acquired it. Mr J has suggested the supplying dealership put the incorrect fuel into the car to disguise the underlying problems that were then when the car was supplied to him.

Mr J's complaint was considered by one of our investigators and they explained why they didn't consider the complaint should be upheld. In summary, they were more persuaded that the car had been miss fuelled and AutoMoney was not therefore liable for the resulting cost of repairs.

Mr J asked for the complaint to be considered by an ombudsman, as he is entitled to do, and the complaint has now been referred to me for consideration.

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 considered all that the parties have said and provided, I'm aware that my decision here will come as further disappointment to Mr J, as I have come to the same overall conclusions as the investigator, for what are broadly the same reasons. That is, I have not upheld Mr J's complaint.

Firstly, I'm very aware that I've summarised this complaint above in far less detail than it may merit. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't

because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome. I will, however, refer to those crucial aspects which impact my decision.

Secondly, I would add that where the information I have is incomplete, unclear or contradictory (as some of it is here), I've to base my decision on the balance of probabilities.

I should also add that our service is not a court and unlike a court I don't have the power to compel the parties involved in this complaint directly, or as a third party, to provide me with evidence. Nor do I have the power to cross-examine the parties here.

As the agreement entered into by Mr J is a regulated consumer credit agreement, this service is able to consider complaints relating to it. AutoMoney is the supplier of the goods, i.e. the car, under this type of finance agreement and is responsible for the quality of the car when it was supplied to Mr J. If it was found that the car was not of satisfactory quality at the time it was supplied to Mr J, AutoMoney could be liable and responsible for the cost of repairs. It may alternatively be required to take back the car, cancel the finance agreement and refund money to Mr J.

AutoMoney is not however responsible for the general upkeep and servicing of the car, nor is it responsible for repairs required if the car has not been maintained correctly, or had the correct fuel added to it while in Mr J's possession.

There is no dispute there is something wrong with the car and that it needs work to get it working properly again. Mr J believes there was something wrong with the car shortly after he acquired it that led to it breaking down. AutoMoney however considers the problems have been caused by Mr J miss fuelling the car.

The car was a used car when supplied to Mr J and had travelled around 27,000 miles when Mr J got it. The car broke down a few weeks later, by which time I understand the car had then travelled 27,498, so less than 500 miles.

I accept it is possible the car has suffered a mechanical or electrical failure that has resulted in the breakdown. Even new cars suffer problems shortly after supply and Mr J's car could have experienced a breakdown. There is however no further evidence that supports this or that indicates what that electrical or mechanical failure actually is.

Mr J has suggested the car could have been miss fuelled before it was supplied to him, but I consider it extremely unlikely this is the case. Had it had the wrong fuel in it when supplied I consider unlikely Mr J would have been able to drive the car the distance he had before it failed. I note that before the car broke down Mr J referred to not feeling great with the car and it's engine and that there was a flashing red light on the dashboard. But I haven't seen anything to suggest this is related to the car being miss fuelled before Mr J took delivery of the car.

AutoMoney believes the car was miss fuelled by Mr J and I fully accept that Mr J disputes he has miss fuelled the car. The copies of the fuel garage receipts showing diesel was purchased don't unfortunately show that it was actually Mr J who bought the diesel, or that it was bought for the car here. It is possible of course that these do show the fuel added to the car but there was however a separate occasion where petrol was mistakenly bought and added to the car.

When the car broke down initially Mr J arranged for the car to be taken to a local garage. That garage concluded that further investigation was required to determine the cause of the problem with the car and suggested the car should be investigated by a manufacturer

associated garage. The local garage subsequently clarified its initial statements and that the inspection it carried out did not indicate a miss fuel or fuelling issue. In a telephone call with our service, the local garage indicated that it did not check the fuel at the time but despite this it thought it unlikely the car had been miss fuelled.

The supplying garage was the one that originally referred to the car being miss fuelled and I can appreciate Mr J's concerns about the impartiality of this garage, as it was the one that supplied the car. But I note the garage carried out initial work on the car, replacing items and incurring costs, when attempting to identify and rectify the issue. I think it unlikely it would have done this if it was intending to put petrol into the car to avoid any responsibility for the car's failure – which is what Mr J has suggested. There seems to be no dispute that the car will now require some considerable repairs and if the supplying garage did miss fuel the car it was doing so at great risk. There was absolutely no certainty that Mr J's complaint here would be upheld and by miss fuelling the car greater damage and therefore costs may have been caused. I do not consider this is something the garage would have likely done just to avoid any potential responsibility for any genuine repairs it may have been liable for.

In addition to the supplying dealer and the local garage Mr J took the car to, AutoMoney arranged for an independent inspection to take place. The company appointed to inspect the car is a well-known and respect vehicle inspection company and I have no reason to doubt the findings reached in its report. I accept it would have been paid by AutoMoney to produce the report, but that does not in my view indicate the report will as a result of this reach a conclusion in favour of AutoMoney.

The inspector's conclusions are clear that the car has likely been miss fuelled. Petrol was identified in the fuel. Although it does suggest a formal fuel analysis is done, it notes '*...the evidence available at the time of inspection that the vehicle does appear to have been miss-fuelled with petrol fuel.*' As already referred to above, I consider it unlikely that the supplying dealership miss fuelled the car after it was returned and after it had already broken down.

As I have referred to above, AutoMoney is responsible for the quality of the car when it was supplied to Mr J. Having carefully considered everything said and provided in this case, I have not seen sufficient evidence to demonstrate the car was defective when it was originally supplied to Mr J. There is insufficient evidence in my view to indicate there was an underlying problem or lack of durability with the car or its components. The evidence supports the view that it was a post-sale event relating to the wrong fuel being added that is what is likely to have caused the car's failure. And it is for these reasons that I do not consider there is sufficient evidence in this complaint for me to conclude AutoMoney is responsible for the problems that Mr J has experienced with the car.

As AutoMoney is not responsible, there are no grounds for me to instruct AutoMoney to help pay for the costs of the repairs or compensate Mr J for the time he has been without the car. I fully appreciate the position Mr J will be in and that he will be facing potentially significant repair costs. But while I do sympathise with Mr J, I cannot however uphold the complaint because of this.

This final decision represents the last stage in our complaint process and I accept that Mr J will likely remain unhappy with the conclusions I have reached here. But I would remind Mr J that should he wish to continue his dispute with AutoMoney, he will need to do so through alternative means, such as the courts.

My final decision

My final decision is that I do not uphold Mr J's complaint against AutoMoney Limited.

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

Mark Hollands
Ombudsman