

The complaint

Mrs M complains about the quality of a used car that was supplied through a hire purchase agreement with Zopa Bank Limited (Zopa).

What happened

In November 2022, Mrs M acquired a used car through a hire purchase agreement with Zopa. The car was about five years and eight months old and had travelled 99,675 miles when it was supplied to her. The cash price of the car was £15,390. Mrs M paid a deposit of £500, so the total amount financed on the agreement was £14,890 payable over 60 months.

Mrs M said that soon after acquiring the car she noticed a number of issues with it which included a chipped windscreen, missing air vents, a faulty braking system, display and AdBlue issues.

Mrs M said she complained about the issues and was told the car would be repaired. However, she said it hadn't been done and so had lost out financially as a result.

An independent inspection report concluded the car wasn't faulty at the point of supply. However, Mrs M said she's had to pay for diagnostics, to have the braking system and AdBlue issue repaired and have taken time off work to sort the issues out. She said she was told the dealership would pay for some of the costs, however, she didn't receive an invoice because the repairs were paid for in cash. Mrs M says she's been affected mentally and physically due to the stress involved, and that she'd like to reject the car and for the agreement to be ended.

In June 2023 Zopa issued their final response. They didn't uphold Mrs M's complaint. Zopa confirmed Mrs M complained to them in May 2023 and explained that an independent inspection report was carried out in April 2023 which confirmed the AdBlue tank had failed. However, it also concluded that due to the usage and mileage since supply it was unlikely the faults were developing at the point of sale. Zopa also said that they'd not received confirmation that the dealership was intending to cover half the costs of repair and that they would need a copy of invoice for repairs, so they weren't able to make a claim for the repair costs without it.

Unhappy with their decision, Mrs M brought her complaint to our service for investigation. Having reviewed all the information on file, one of our investigators recommended that the complaint should be upheld. The investigator recommended that Zopa should pay Mrs M £200 in compensation for the travel and fuel to the dealership, pay half the cost of repair to the AdBlue system on production of a receipt and to refund the cost of her hotel stay when she had to bring the car to the dealership, on production of a receipt.

In July 2023 Mrs M contacted the investigator to say the dealership agreed to facilitate a voluntary surrender of the car. The car was collected by the dealership to be sold. However, the outstanding costs would be dependent on the sale of the car which Mrs M was yet to be informed of.

In August 2023 Zopa responded to the investigator's view and provided some further information. Zopa said they believed Mrs M had the opportunity to reject the car when the initial issues with the windscreen and air vents were reported. Zopa also advised that Mrs M had the repairs carried out by a third-party garage, which the dealer agreed to contribute £200 towards. Zopa said the issue with the AdBlue wasn't reported until March 2023 and so they stand by the findings of the independent inspection report.

Zopa also disagreed that Mrs M needed to stay in a hotel as the dealership confirmed to them the repairs took only a few hours. Zopa also confirmed the car was collected as part of a voluntary surrender and sold for £11,650 which was applied to the agreement balance on 24 July 2023 leaving a balance of £1,887 for Mrs M to repay.

In consideration of the new information and change in circumstances since his initial view, the investigator issued a second view where he concluded that Zopa should still pay £200 compensation for fuel costs and for the inconvenience of having to drive the car a significant distance for the initial repairs. He also recommended Zopa pay for the hotel costs on proof of payment.

Zopa didn't accept our investigator's second view and asked that the case be referred to an ombudsman for 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.

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.

Mrs M complains about a hire purchase agreement. Entering into consumer credit contracts like this is a regulated activity, so I'm satisfied we can consider Mrs M's complaint about Zopa. Zopa 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.

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.

My starting point is that Zopa supplied Mrs M with a used car that had travelled 99,675 miles. With this in mind, I think it's fair to say that a reasonable person would expect the level of quality to be less than that of a brand-new car with lower mileage; and that there may be signs of wear and tear due to its usage which may impact its overall quality and reliability, so there'd be an increased likelihood of unforeseen problems surfacing sooner than in a new vehicle.

From the information provided I'm persuaded there was a fault with the car. This is apparent from the diagnostic invoice provided by Mrs M dated 1 March 2023 and the independent inspection report, dated 25 April 2023 which both confirm an issue with the AdBlue tank. I'm also persuaded the car had issues relating to the windscreen, air vents brakes and tyres as Zopa has confirmed this to be the case and the vehicle health check confirms some of those issues also.

Having considered the car had a fault, I've considered whether it was of satisfactory quality at the time of supply.

Mrs M provided a copy of an email she sent to the broker advising she noticed soon after acquiring the car, when she got home, that the windscreen was chipped, the rear air vents were missing, and the braking was slow to respond. Mrs M said she was told to take the car to the dealership for repairs. Mrs M confirmed the repairs were carried out around 28 November 2022. Having considered the distance of the dealership to Mrs M's home, I can see it's around 200 miles in one direction.

Although I've seen no evidence of the issues or repairs that had taken place, I'm satisfied they were carried out as described by Mrs M. Zopa has also confirmed this is not in dispute.

In consideration Mrs M acquired the car in November and it was repaired the same month, on this basis I'm satisfied the car wasn't of satisfactory quality when it was supplied. However, I'm satisfied under the CRA that the dealership acted fairly in repairing the issues reported within a reasonable timeframe.

Mrs M said she reported issues with the display in January 2023, she also said this is when she noticed the warning light advising of an incorrect AdBlue level. Mrs M said the warning light was intermittent as was the problem with the display. Mrs M says the car went into the dealership for repairs between 9 and 11 February 2023 but was told there were no problems with the car when it was returned.

Having considered the circumstances surrounding these issues, I don't think they demonstrate the car was of unsatisfactory quality. Although they were reported within the first six months of supply, in consideration the car had travelled over 99,000 miles at the point it was supplied to Mrs M, I don't think it's unreasonable that there'd be issues arising which require maintenance or repair. I think this expectation is reflected in the price of purchase which is significantly lower than it would be if the car was brand new.

I've also considered that Mrs M was able to travel a further 6,000 miles since being supplied the car, which in the circumstances I wouldn't consider to be an insignificant amount. In addition, the independent inspection report confirms an issue with the AdBlue tank, however it also adds that due to the length of time the car has been in use it wouldn't have been present or developing at the point of supply.

Having said that, I've given thought to whether Mrs M was treated fairly throughout. I acknowledge the car has been voluntarily surrendered, and I think in the circumstances this was a preferable outcome for Mrs M. I say this because in comparison to other options, for example voluntary termination, surrendering the car in similar circumstances where the

ownership has been for less than half the term of the agreement, voluntary surrender tends to have less of a financial impact. So, I'm satisfied this was a fair option and outcome for Mrs M.

However, having considered the impact this situation has had on Mrs M, for example having to travel back and forth with round trips being in the region of 400 miles, particularly for issues which shouldn't have been present, I'm in agreement with the investigator that £200 fairly recognises the costs and inconvenience Mrs M would have endured bringing her car to be repaired.

I've also thought about the hotel costs Mrs M said she incurred. I acknowledge Zopa have said the repairs lasted a few hours, however I've thought about whether it was reasonable to expect Mrs M to have to travel around 200 miles, wait a few hours for a repair and then have to travel a further 200 miles back home in the same day. In the circumstances I don't think it's unreasonable that Mrs M would have chosen to stay in a hotel.

Mrs M confirmed to us that the hotel costs were around £200 - £300 for a three-night stay. I don't think this is an unreasonable cost. So, I think it's fair that the hotel stay for one night is reimbursed to Mrs M upon proof of payment. I Acknowledge Mrs M says she paid cash and so had no receipt; however, I think it's reasonable to ask that Mrs M provide some confirmation of her stay, for example with an email confirmation from the hotel, or correspondence from them confirming the rate and date of stay.

I acknowledge the difference of opinions that both parties have shared with our investigator, and in particular I'm sorry to learn of the personal difficulties Mrs M said she'd experienced as a result of this situation.

My final decision

Having thought about everything above along with what is fair and reasonable in the circumstances, I uphold this complaint and instruct Zopa Bank Limited to:

- Pay Mrs M £200 in compensation in recognition of the inconvenience caused by having to take the car a significant distance for repair to the windscreen and air vents soon after supply
- Reimburse to Mrs M the cost of the hotel stay for one night, upon confirmation or proof from Mrs M of the stay (as explained in my decision), related to the windscreen and air vent work repairs

Zopa Bank Limited should pay 8% yearly simple interest on all reimbursements calculated from the date of payment to the date of settlement.

If Zopa Bank Limited considers that it's required by HM Revenue & Customs to withhold income tax from the interest part of my award, it should tell Mrs M how much it's taken off. It should also give Mrs M a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 26 January 2024.

Benjamin John
Ombudsman

