

## **The complaint**

Mr B complains about the quality of a car he has been financing through an agreement with Mitsubishi HC Capital UK Plc, trading as Novuna Business Finance. I'll call them "Novuna".

## **What happened**

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead, I'll focus on giving my reasons for my 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.

I know it will disappoint Novuna, but I agree with the investigator's opinion. I'll explain why.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

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.

Mr B acquired his car under a hire purchase agreement. This is a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

The Consumer Rights Act (2015) is the relevant legislation. It says that the car should have been of satisfactory quality when supplied. If it wasn't then Novuna, who are also the supplier of the car, are responsible. The relevant law also says the quality of goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, the price and all the other relevant circumstances.

In a case like this which involves a car the other relevant circumstances would include things like the age and mileage at the time the car was supplied to Mr B. The car here was about three years old and had already completed about 26,600 miles.

An old car with a high mileage will not be expected to be as good as a newer car with a low mileage, but it should still be fit for use on the road, in a condition that reflects its age and price. I don't think this car was very old and I think a reasonable person wouldn't expect much to be wrong with it.

When we think about whether a car is of satisfactory quality the relevant legislation says we should also consider whether it has proven durable.

I don't think this car has been durable. I say that because I have seen job sheets and breakdown reports that demonstrate it has been recovered on several occasions and for similar, electrical related reasons. An airbag fault persists, as does an ABS Module fault, and the car has failed to start on several occasion. The car was returned to approved dealerships for repairs in October 2021, January, March, June, October, November, and December 2022, and again in January 2023. The most recent information I have suggests the car has still not been repaired.

I think a reasonable person would not expect a car of this age and mileage to have exhibited so many problems within the first year and a half of ownership.

And, even if I'm wrong about the car not being durable, the relevant legislation allows the business one opportunity to repair a fault. I can understand it wouldn't have been practical for Mr B to return the car to the supplying dealership as it was some considerable distance away from where he lived. But he has returned it to approved dealerships and it seems those returns have been organised by the manufacturer's breakdown service. The initial repair was carried out in October 2021 shortly after the car was supplied to Mr B and I therefore think it's likely the fault was present when the car was supplied. The air bag fault hasn't been resolved. It has been a feature of many, if not all, of the breakdown reports I've seen, and that I've referred to above. As repairs haven't been successful I think Novuna should now allow Mr B to reject the car and to end his finance agreement with them.

### **Putting things right**

Novuna should collect the car at no cost to Mr B and they should end the finance agreement.

There was a period of about two months up to January 2023 when Mr B didn't have use of the car because it was being fixed. It's only fair that Mr B should pay for the use he's had, but Novuna should refund two monthly instalments for this period to reflect his lack of use. They'll need to add interest to that refund as Mr B has been deprived of the money.

Mr B hasn't had use of the car since 6 January 2023 so Novuna should refund any finance instalments paid since 6 January 2023, with interest.

They'll also need to refund Mr B's deposit and they should add interest to that refund.

Mr B has been inconvenienced by these issues. He's had to escalate his complaint to this Service when I think it could have been resolved earlier, and he's had to rely on breakdown services on several occasions. He's explained that he hasn't been able to afford to finance another car while he's been financing this one, and he's also explained how that's caused problems for him when trying to look after his sick mother who lives alone. In the circumstances I think Novuna should pay him £250 in compensation.

### **My final decision**

For the reasons I've given above, I uphold this complaint and tell Novuna Business Finance to:

- Allow Mr B to reject the car and end the finance agreement.
- Collect the car at no cost to Mr B.
- Refund any deposit that has been paid and add 8% simple interest\* per year from the date of payment to the date of settlement.

- Refund two monthly finance instalments for the period up to 6 January 2023 in respect of loss of use. Add 8% simple interest\* per year from the date of payment to the date of settlement.
- Refund all finance instalments paid from and including 6 January 2023 in respect of loss of use. If any are due but haven't been paid they should be waived. Add 8% simple interest\* per year from the date of payment to the date of settlement.
- Pay Mr B £250 to compensate him for the distress and inconvenience he's experienced.
- Remove any adverse reports they may have made to Mr B's credit file in relation to this issue.

\*If HM Revenue & Customs requires the business to take off tax from this interest they must give the consumer a certificate showing how much tax it's taken off if the consumer asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 22 November 2023.

Phillip McMahon  
**Ombudsman**