

The complaint

Mr H complains that a car acquired under a hire purchase agreement with Advantage Finance Ltd wasn't of satisfactory quality.

What happened

In January 2021, Mr H acquired a used car from Advantage Finance under a hire purchase agreement. The car was five years old and had covered approximately 11,500 miles when the agreement started. The agreement was for 60 months, and the cash price of the car was £10,699.

Mr H took the car for a service and MOT in January 2023. He had travelled approximately 47,000 miles in the car at this point. Unfortunately, the car failed the MOT as the MOT centre explained the car had a 'hairline' crack in the engine, and the engine would need to be replaced. Mr H has said the MOT centre told him this was a known fault with the model of car he had, and the manufacturer had issued a recall notice because of it. However, the manufacturer had since confirmed to Mr H that no recall notice had been issued for the year of manufacture of the car he had been supplied with.

Mr H complained to Advantage Finance in February 2023. He said the car they had supplied him with wasn't of satisfactory quality and he wanted Advantage Finance to either cover the cost of the engine replacement or allow him to reject the car. Advantage Finance arranged for an independent inspection of the car to take place. This inspection concluded the car was of satisfactory quality when it was supplied, and the fault with the engine was more than likely caused by age-related wear and tear. Because of this, Advantage Finance wouldn't agree to repair the car or take it back from Mr H.

Mr H wasn't happy with this and brought his complaint to our service. Our investigator didn't uphold it. She said she accepted there was a fault with the car, but didn't accept the evidence supplied suggested the fault had been present or was developing when the car was supplied to Mr H. She agreed with the inspection report that the fault more than likely occurred because of age-related wear and tear.

Mr H didn't agree. He maintained that the car supplied to him by Advantage Finance wasn't of satisfactory quality.

As Mr H didn't agree, it's been passed to me to decide.

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 the hire purchase agreement entered by Mr H is a regulated consumer credit agreement this service is able to consider complaints relating to it. Advantage Finance are also the supplier of the goods under this type of agreement and are responsible for a complaint about their quality.

The Consumer Rights Act 2015 (CRA) covers agreements like the one Mr H entered. Because Advantage Finance supplied the car under a hire purchase agreement, there's an implied term that it is of satisfactory quality at the point of supply. Cars are of satisfactory quality if they are of a standard that a reasonable person would find acceptable, taking into account factors such as – amongst other things – the age and mileage of the car and the price paid.

The CRA also says that the quality of goods includes their general state and condition, and other things like their fitness for purpose, appearance and finish, freedom from minor defects and safety can be aspects of the quality of the goods.

But on the other hand, satisfactory quality also covers durability. For cars, this means the components must last a reasonable amount of time. Of course, durability will depend on various factors. In Mr H's case, the car was used and had covered approximately 11,500 miles when he acquired it. So, I'd have different expectations of it compared to a brand-new car. Having said that, the car's condition should have met the standard a reasonable person would consider satisfactory, given its age, mileage and price.

Our investigator has explained that she's satisfied the car was of satisfactory quality when it was supplied to Mr H. I agree in this case. There is no doubt that the car has a serious fault – all the inspections carried out confirm that to be the case. But I'm not persuaded, from what I've seen, that I can conclude the car was faulty when it was supplied to Mr H. I'll explain why.

The CRA explains that where goods are found not to have conformed to the contract within the first six months, it is presumed the goods did not conform to the contract at the point of supply. Unless the supplier, Advantage Finance in this case, can prove otherwise. But in Mr H's case, it was just under two years from when he first acquired the car to when the engine fault was first reported. So, under the CRA it would normally be for him to prove that the fault with the engine had been present from the point the car had been supplied to him. However, Advantage Finance agreed to arrange an independent inspection of the car, at no cost to Mr H, to determine when the fault with the car had occurred.

The independent inspection report is, in my opinion, the most persuasive piece of evidence in this case. It was a physical inspection of the car by a qualified car technician. The technician concluded that there was no suggestion that the issues present with the car were present or developing when the car was supplied to Mr H. The report explained the fault had developed because of age-related wear and tear. The technician felt that Mr H would not have been able to travel the miles he had in the car, approximately 47,000 in just under two years, without the fault being noticed previously. Mr H hasn't been able to provide any independent evidence to counter what the report says. Because of that, I don't have anything that dissuades me from agreeing with the findings of the inspection report, or that leads me to say Advantage Finance acted unreasonably by following the guidance contained within the report. Based on what I've seen, I'm satisfied Advantage Finance have acted reasonably towards Mr H in this case.

It's also worth mentioning that Mr H had taken the car for a MOT in January 2022, which the car had passed. I think it's reasonable to conclude that the MOT check would have picked up any faults or cracks in the engine at that stage, as it was a MOT check in January 2023 that identified the fault. So, it follows that I'm persuaded the crack in the engine wasn't present when Mr H took it for its first MOT under his agreement term. I'm more satisfied than not that the MOT centre would have noticed it at that stage, and the car would have more than likely failed the MOT in January 2022 because of the fault.

Mr H has said that he believes the fault with the engine is an inherent one, and that the

manufacturer issued a recall notice for the model of car in question because of it. But the manufacturer themselves have confirmed in an email to Mr H that there hasn't been a recall of this model and year of car, so I can't say I'm persuaded by Mr H's argument here. Similarly he has provided a generic diagnostic report explaining what the potential problem could be, and what caused it, but this report isn't for the specific car Mr H acquired and is complaining about. It appears to cover a range of years that a car could have been manufactured. In the absence of anything from Mr H that relates to the car that is being complained about, I must conclude that I think Advantage Finance acted reasonably by arranging an independent inspection of the car and by following the findings of that report.

I know this decision will come as a disappointment to Mr H, as he still has the car, and it requires some significant repair work to enable it to be driven. However, I can't hold Advantage Finance responsible for that, for the reasons given. I won't be asking them to do anything more here.

My final decision

For the reasons above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 2 January 2024.

Kevin Parmenter
Ombudsman