

The complaint

Mrs F complains about the quality of a car she has been financing through an agreement with Creation Consumer Finance Ltd, who I'll call Creation.

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 Mrs F, 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.

Mrs F acquired her 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 Creation, 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.

There's no dispute that a fault was identified with the oxygen sensor on this car very shortly after Mrs F took receipt of it. The car was repaired, but Mrs F says the fault came back only a couple of weeks later and only about a month after she'd taken receipt of the car.

The relevant legislation says that if a repair fails the goods may be rejected. But there needs to be evidence the repair has failed or that there was another problem, present or developing when the car was supplied to Mrs F.

I don't think there is sufficient evidence that the repair failed or that there was a fault with the car on 13 March 2023 when Mrs F had to call for assistance.

The report provided at that time explained that the customer had reported the Engine Management Light was on and there was an erratic idle at times. The engineer noted that

the fuel was low and asked Mrs F to refuel. He reset the throttle idle control and cleared fault codes that Mrs F says were the same ones that had appeared during the initial fault.

The report also explained that *“Diagnostic testing may be limited in a breakdown type situation. Please ensure symptoms/suggested faults are confirmed by your chosen repairer before any suggested work is started.”*

I’m not persuaded that I have sufficient evidence there was a fault with the car as I’ve seen no subsequent report to confirm there were any faults with the car. I’m not persuaded that the mere presence of fault codes is demonstrative of a fault as I don’t know, for instance, whether those faults were historic.

Unfortunately, as Mrs F has now sold the car it isn’t practical to obtain a more detailed report to demonstrate the car was still experiencing the original fault or that there was a fault with it that was likely to have been present, or developing, at the point of supply, and that made the car of unsatisfactory quality.

I’m not therefore asking Creation to take any further action.

My final decision

For the reasons I’ve given above, I don’t uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs H to accept or reject my decision before 22 November 2023.

Phillip McMahon
Ombudsman