

## **The complaint**

Miss B has complained about the quality of a used car she acquired, using finance from Marsh Finance Ltd.

## **What happened**

In July 2022, Miss B entered into a finance agreement with Marsh for a second-hand car. She's explained that in October 2022, the car broke down and was repaired by the supplying dealership. However, it then broke down again two days later. Accordingly, she contacted Marsh and said she wanted to reject the car. Marsh contacted the broker, who arranged an inspection. This confirmed there was a fault.

Marsh agreed that Miss B could reject the car. But it couldn't get through to her to arrange for collection. The dealership subsequently said that Miss B had agreed to a repair, and compensation.

Miss B brought her complaint to our service in January 2023, explaining that her car had been in the garage since mid-December 2022. She also explained that Marsh had told her that, if the car was faulty, she'd receive a refund of her monthly rentals so far, but this hadn't happened. She also felt compensation would be fair, given the circumstances.

One of our investigators looked into what had happened. He was satisfied that the car was faulty, given the evidence provided, including the inspection report. Further, he considered the car had been faulty at the point of supply, as the report found the issues were due to previous failed repairs.

So, our investigator looked into what he thought should be done, to put things right – given that it had been agreed that the car would be repaired.

In summary, in addition to the repairs, he recommended the following.

- As Miss B had a courtesy car when the car was being repaired, she shouldn't be refunded her repayments for this period. However, she had had impaired/no use of the car prior to this, and so Marsh should refund November 2022's monthly repayment, to reflect this.
- The matter has caused Miss B distress and inconvenience, and Marsh should pay her £100 compensation in recognition of this.

Miss B disagreed. In summary, she said that:

- she was told by the broker she had to pay for an initial inspection, prior to the one it later arranged;
- there was considerable to-ing and fro-ing between her, the broker, the dealership and Marsh, which took months – including both the broker and Marsh saying the other should be responsible for refunding her monthly repayments, and paying her

compensation;

- Marsh should refund her all of her monthly repayments over the full period she didn't have the car/couldn't drive it, because being without it was inconvenient and costly. The car couldn't be driven from mid-October and wasn't taken for repairs until mid-December. During this time she got lifts and had to reimburse people for the fuel; and
- she had to arrange the courtesy car herself, through the dealership, and it was not like-for-like.

Marsh also disagreed. It felt it had done all it could to help Miss B, and the fault was with the diesel particulate filter ('DPF') – which may well have been caused by Miss B's driving style.

The complaint was then passed to me to decide. I issued a provisional decision, as I didn't agree with the proposed redress. In that decision, I said the following.

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Miss B has explained that she feels she should be reimbursed her monthly repayments for the entire period she was without the car. I don't agree that she should be reimbursed for the period she had the courtesy car. This is because she was kept mobile for this period, and although the courtesy car was different from the financed car, I think it's fair to say they are both premium cars. To be reimbursed for this period would mean Miss B had a car for free for a month, which I don't think is reasonable. I'm also aware that Miss B had to organise this with the dealership, but this is standard – it's the dealership that has access to courtesy cars, not the finance provider.

Having said that, I think she should be reimbursed from when the car broke down in mid-October, to when it was taken to be repaired in mid-December. This is a three month period, so can fairly be addressed by refunding her October, November and December 2022 repayments. Although it's unclear from the independent report whether or not the car could technically be driven any significant distance, I'm satisfied it was right for Miss B not to do so. I say this because the report clearly points to a fault with the DPF. This can – and indeed often does – lead to catastrophic engine failure. By not driving the car, Miss B likely avoided further very costly repairs. Further, she quite understandably had safety concerns. I think it was perfectly reasonable not to drive the car – even if it could be driven, which is itself unclear.

Marsh has noted that the DPF issue may have been caused by Miss B's driving style. I don't think this is fair, given that Marsh had accepted the report's findings. The report referred to issue having been caused by ineffective earlier repairs. So, the issue was almost certainly present at the point of supply.

As regards the preliminary inspection, which the broker requested, and which was paid for by Miss B. I agree that Marsh should refund her for this expense, given the broker is, in effect, its agent, and Miss B should not be out-of-pocket for it.

Finally, I've considered an award for distress and inconvenience. I'm aware that Miss B has already received compensation from the dealership, and I need to be mindful of this. But, I don't think Marsh has always been as helpful as it should have been – particularly in sometimes directing her to the broker, rather than handling matters itself. So, I think £200 is a fairer award to take into account the trouble and upset caused.

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Miss B agreed with my provisional decision. Marsh also agreed, except regarding the refund of the October payment. It didn't think this was fair, as Miss B didn't refer the matter to it until 8 November.

### **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 parties are largely in agreement with my provisional decision, the only outstanding matter for me to decide is whether Marsh should refund Miss B her October repayment. I'm satisfied it should. This was because during the period leading up to Miss B complaining to Marsh in early November, she was attempting to resolve matters with the broker – including having a diagnostic report carried out, at her own expense, at the broker's request. I don't think this was unreasonable of her, given that a broker's role is typically to act as a 'middleman'. So, I think it fair that Marsh refund her for this period, and the October repayment reflects this.

### **Putting things right**

To put things right, Marsh Finance Ltd should:

- refund Miss B's October, November and December 2022 monthly repayments; adding 8% simple interest a year, from the date of each payment to the date of settlement;
- reimburse Miss B for the initial diagnostic report she had carried out, adding 8% simple interest a year, from the date of the invoice (29 October 2022) to the date of settlement; and
- pay Miss B £200 compensation for the distress and inconvenience caused.

### **My final decision**

For the reasons given above, it's my final decision to uphold this complaint. I require Marsh Finance Ltd to take the actions set out above, in the section entitled 'Putting things right'.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 3 January 2024.

Elspeth Wood  
**Ombudsman**