

The complaint

Mr H complains that a car acquired with finance from Zopa Bank Limited wasn't of satisfactory quality.

What happened

In May 2022 Mr H was supplied with a car and entered into a hire purchase agreement with Zopa.

In December 2022 the engine failed. A recovery organisation who attended advised Mr H that the connecting rod had snapped and seized the engine.

Mr H complained to Zopa and said the car wasn't of satisfactory quality. Zopa didn't uphold the complaint. It said Mr H would need to provide evidence to show that the fault was present or developing at the point of supply.

Mr H obtained an independent inspection report. The report said the connecting rod had snapped and that there was a hole in the engine block. The engineer noted that the car had covered around 10,500 miles since the point of supply and said the fault was unlikely to have been present at the point of supply, but that it could have been caused by a defect with the turbo, or by oil content/contamination.

Mr H sent the report to Zopa and asked to reject the car. Zopa said the report wasn't evidence that the car was faulty at the point of supply.

Mr H brought his complaint to this service.

I issued a provisional decision in which I upheld the complaint. I said I was satisfied that the car had a fault because the inspection report confirmed that the engine had failed and that the connecting rod had snapped and there was a hole in the engine block.

I looked at the inspection report and said that although the engineer had said that it was unlikely that the fault was present at the point of supply, he had stated that engine failure was not to be expected in a car of this age and mileage and that durability may be an issue.

I said that I understood why Zopa didn't think the inspection report established that the fault was present at the point of supply. But I said that the issue of durability was relevant here, and that in light of the fact that Mr H had only been driving the car for around 6 months when the engine suffered catastrophic failure, I didn't think a reasonable person would expect engine failure within a relatively short time of getting the car.

I undertook research into the lifespan of a connecting rod and found that it should last the lifetime of the vehicle or around 150,000 miles, provided that the oil is changed regularly. I said I was satisfied that the car had been serviced (including an oil change) before it was supplied to Mr H and that I was persuaded that Mr H had also carried out checks on the oil level. I said that taking this into account, I was persuaded that the connecting rod had broken prematurely, and that the car wasn't sufficiently durable and therefore not of satisfactory

quality. I said that Mr H should be allowed to reject the car.

I invited both parties to let me have any further evidence or arguments they wished to raise.

Mr H replied and said he accepted my provisional decision.

Zopa replied and said that they remained of the opinion that the evidence didn't confirm a point of sale fault but they appreciated my comments about durability. Zopa disagreed with my recommendation that it should refund all payments made by Mr H since December 2022. It said Mr H had enjoyed fair use of the car as he had covered over 10,000 miles despite the faults. Zopa said it would be looking to retain payments for the mileage covered.

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've taken into account what Zopa has said about fair usage. I acknowledge that Mr H has covered around 10,000 miles in the car in the first 6 or 7 months that he had it. This isn't particularly high mileage and as far as I'm aware, Mr H made payments throughout this time. I haven't asked Zopa to refund any of the payments prior to the point where the engine seized because I think it's fair that Zopa retains these to reflect the fact that Mr H was able to drive the car during this time.

The engine seized in December 2022 and it's accepted by all parties that Mr H hasn't been able to drive the car since then. I've found that the engine seized because of a durability issue, which means that the car wasn't of satisfactory quality when it was supplied. I don't think it's fair to expect Mr H to make payments for a car that he's been unable to use because it wasn't of satisfactory quality. So I remain of the view that Zopa should refund all payments made by Mr H since December 2022.

In every other respect I see no reason to change the outcome from that which was set out in my provisional decision.

Putting things right

To put things right, Zopa Bank Limited must:

End the agreement with nothing further to pay

Arrange for the car to be collected at no cost to Mr H

Refund any deposit/part exchange contribution

Refund all hire payments made by Mr H since December 2022

Refund the cost of the inspection report £240

Pay 8% simple interest per year on all amounts refunded calculated from the date of payment to the date of settlement

Pay £200 compensation for distress and inconvenience

Remove any adverse information from Mr H's credit file in relation to this agreement

My final decision

My final decision is that I uphold the complaint. Zopa Bank Limited must take the steps I've set out above.

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

Emma Davy
Ombudsman