

## **The complaint**

Mrs O complains that a car supplied with finance from FCE Bank Plc wasn't of satisfactory quality.

## **What happened**

In October 2016 Mrs O was supplied with a car and entered into a finance agreement with FCE. The agreement was for 36 months with monthly payment of £199.87 followed by an optional final payment of £3,939 if Mrs O wished to keep the car.

In October 2019 the agreement was modified and extended by a further 23 instalments of £176.81 with an optional final payment of £186.81 if Mrs O wished to keep the car.

In January 2023 Mrs O raised a complaint about the quality of the car. She said the clutch had been replaced for the third time and she believed that the clutch had an inherent fault. Mrs O asked FCE to reimburse her for the cost of the clutch replacement.

In its final response, FCE rejected Mrs O's complaint. It said there was no evidence to suggest that the car was faulty. It said the clutch issue was investigated in April 2020 and that at that time the dealership had stated that the clutch had burned out due to driver style.

Mrs O remained unhappy and complained to this service. She said she was an experienced driver of over 40 years and had never experienced clutch issues before.

Our investigator didn't uphold the complaint. He said that this service had already issued a final decision in relation to an earlier complaint by Mrs O relating to the replacement of the clutch in 2018 and 2020. The investigator said that because FCE had issued a final response in relation to Mrs O's complaint about the clutch being replaced in 2023, he could look into this issue only. The investigator concluded that although he could see from the invoice that the clutch had been replaced in January 2023, there was no evidence to suggest that the clutch needed to be replaced because of an inherent fault or underlying manufacturing issue. The investigator said he wouldn't be asking FCE to do anything further.

Mrs O didn't agree. She said it wasn't reasonable that a car should require a clutch replacement at 6000 miles and a further two replacements. She said her car had now had four clutch replacements and had covered only 24,500 miles. Mrs O said that the issue with the clutch wasn't caused by driver style because she was an experienced driver.

## **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.

The Consumer Rights Act 2015 is relevant to this complaint. This says that goods must be of satisfactory quality when supplied. Cars are of satisfactory quality if they are of a standard that a reasonable person would regard as acceptable, taking into account things such as the age and mileage of the car and the price paid. The legislation says that the quality of the

goods includes their general state and condition and other things like fitness for purpose, appearance and finish, freedom from minor defects, safety and durability.

Under the relevant legislation, where a car is found to be of unsatisfactory quality in the first 6 months, it's presumed that it wasn't of satisfactory quality at the point of supply unless the business can show otherwise. After 6 months, the burden of proof is reversed and it's up to the consumer to show that the car wasn't of satisfactory quality at the point of supply.

In this case, this service has already issued a final decision about the clutch replacement in 2018 and 2020. So I'm unable to comment further in relation to that. I'll focus on the clutch replacement in 2023 only.

I've reviewed the available evidence. I've seen a job sheet dated 24 January 2023 which shows that the clutch was replaced. Based on this, I'm satisfied that there was a fault with the clutch in January 2023 which meant that it needed to be replaced.

However, just because there's a fault doesn't mean that the car wasn't of satisfactory quality when it was supplied. The car was supplied in October 2016. Because more than 6 months have passed since the point of supply, and as I've explained above, it's up to Mrs O to show that the fault with the clutch is due to an inherent defect as opposed to general wear and tear.

Mrs O hasn't provided any evidence to support her assertion that the clutch has an inherent defect. She relies on the fact that the clutch has been replaced four times during her period of ownership of the car. There's nothing on the job sheet dated 24 January 2023 which suggests that the clutch needed to be replaced because it had an inherent defect or because it wasn't sufficiently durable.

In the absence of any evidence to indicate that the clutch had an inherent defect, I'm unable to safely conclude that the car wasn't of satisfactory quality when it was supplied. I'm therefore unable to ask FCE to cover the costs of the replacement clutch.

### **My final decision**

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O to accept or reject my decision before 12 October 2023.

Emma Davy  
**Ombudsman**