

The complaint

Mr F complains about a car he acquired through a hire purchase agreement with RCI Financial Services Limited trading as Mobilize Financial Services (RCI). Mr F has experienced a significant issue with the car's engine and this has resulted in the car being undrivable and in need of a replacement engine.

What happened

In April 2023 Mr F acquired a used car using a hire purchase agreement with RCI. The car was approaching three and a half years old, had travelled around 14,400 miles and cost £17,649. Within a couple of months Mr F had a problem with the car, causing it to go into limp mode and by this stage he had only travelled around 2,400 miles.

The car has been off the road since and it has more recently been established that the problems with the car are likely due to a failed, and severed, spark plug in cylinder two of the car's engine. The failure and disintegration of the spark plug has caused catastrophic damage to the engine, resulting in the car needing a replacement engine.

Mr F complained to RCI and as he was unhappy with its response, he referred his complaint to our service. One of our investigators set out why they considered the car was not of satisfactory quality when supplied to Mr F and what they considered fair and reasonable to put things right.

RCI did not accept the investigator's findings and recommendations and as the complaint could not be resolved informally, it has been referred to me so a final decision can be issued.

After initially reviewing the complaint, I asked the investigator to explain to the parties that I was minded to come to a different conclusion on what should be done to put things right in this case. In summary, that was for RCI to now allow Mr F to reject the car rather than waiting for an engine replacement.

RCI apologised for its delay in responding to the investigator's findings and said this was because of a lot of discussions with the dealership. RCI said it was now willing to accept the investigator's findings.

Mr F explained he thought rejecting the vehicle was fair.

The investigator thanked RCI for its response but explained that the case has now already been considered by an ombudsman and that rejection was now being considered as a suitable remedy.

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.

Having done so, I consider Mr F's complaint should be upheld and he should now be allowed to end his agreement with RCI with nothing further owed. I have set out below in

more detail why I have come to this conclusion.

The circumstances are of course well known to the parties involved in this complaint and I see no benefit therefore repeating them at length in this decision.

Where the evidence is incomplete, inconclusive, or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.

Mr F acquired a used car using a hire purchase agreement with RCI. Our service is able to consider complaints about hire purchase agreements and as RCI is the supplier of the car to Mr F under the hire purchase agreement, we can consider complaints about the quality of that car. When considering the quality of a car the Consumer Rights Act 2015 is appropriate legislation that would apply in this instance.

The Act requires RCI to supply goods that are of satisfactory quality. An element of satisfactory quality includes durability, which requires goods to last a reasonable period of time. Exactly what is a reasonable period of time will depend upon the circumstances and a number of factors. The test of whether or not the quality of the goods is satisfactory is determined by what a reasonable person would consider satisfactory for the goods in question. When assessing whether or not Mr F's car was of satisfactory quality, the age, mileage and cost at the time it was supplied, along with the nature of the fault, the timing and mileage of the fault are all relevant considerations here.

As already mentioned above, the cost of the car was £17,649 and this is not an inconsiderable sum. The car was less than three and a half years old and had travelled around 14,400 miles when the car was acquired. So not a particularly old or worn car. Little had changed when the engine issues arose very shortly after the car being supplied, with only around 2,400 miles having been travelled.

Considering the low mileage and age of the car, plus the purchase price, it's reasonable for Mr F's expectations around the quality, and therefore durability of the car, are higher than when buying a used car for considerably less cost and perhaps higher mileage. Also relevant in my view is the fault or failure and the timing or mileage of the fault. There seems to be little or no dispute that the car's engine now needs replacing and this is caused by the failure of one of the spark plugs and resulting impact on cylinder 2 of the engine. That failure has likely caused debris to be consumed within the engine and this has led to the much more significant failure of the engine as a whole. The failure occurred here after the car had travelled less than 17,000 miles and was still only just over three and a half years old.

I accept that spark plugs are a serviceable item but as the investigator previously set out, it would not be reasonable to expect the spark plug to fail so prematurely. I've seen nothing in this case that indicates Mr F has done anything, in the very brief time he had the car, to cause the spark plug or ultimately engine failure.

Having considered the circumstances of Mr F's complaint I am satisfied that the car supplied to Mr F was not of satisfactory quality when it was supplied to Mr F, as it wasn't sufficiently durable. That has ultimately resulted in component failure in the spark plug, which has then caused catastrophic damage to the engine, requiring its replacement.

Putting things right

As I have found the car supplied to Mr F was not of satisfactory quality, I have next considered what is required to put things right.

Mr F only had the car for a very short period of time before its failure and since then it has sat unused waiting for repairs. Approaching nine months have now passed and as identified in the independent inspection report, further work is likely now required in addition to the engine replacement, to get the car up and running. I'm also mindful of the significant costs associated with fitting a replacement engine and the amount of time and work this will take before the car is actually up and running again.

In view of these factors, I think it would be fair and reasonable to now allow Mr F to reject the car and for RCI to take back the car and end his agreement with nothing further owed. Mr F has been paying the monthly hire purchase agreement repayments despite not being able to use the car and RCI should now refund those payments with interest. If RCI has recorded any adverse information on Mr F's credit file, this should now be swiftly removed.

Mr F has also incurred costs in obtaining reports and he would not have incurred these costs if RCI had supplied a car of satisfactory quality. These should also be refunded.

Finally, I've considered the trouble and upset Mr F has experienced as a result of being supplied with a car that was not of satisfactory quality. There would have been initial inconvenience with the car's failure and not being able to use it. Further inconvenience seeking diagnostics, inspections, potential repairs and having the car sat on his drive for a long time is also likely. And I note that Mr F has highlighted the understandable challenges around making the hire purchase repayments to RCI and to the replacement vehicle he had to acquire as he could not use the broken down car.

I can fully appreciate the distress and inconvenience Mr F has suffered as a result of RCI's actions and I consider an additional sum of £350 is reasonable as compensation for this.

My final decision

My final decision is that I uphold Mr F's complaint against RCI Financial Services Limited trading as Mobilize Financial Services. To settle the complaint, RCI Financial Services Limited trading as Mobilize Financial Services should now:

1. Take back the car from Mr F at a convenient time and without Mr F incurring any costs.
2. Cancel the hire purchase agreement with nothing further owed, ensuring no adverse information is recorded on Mr F's credit file.
3. Refund all repayments made to the hire purchase agreement after the car failed, which I understand to be the end of June 2023.
4. Refund the £102 and £264 costs of the inspection reports.
5. Pay Mr F £350 for the distress and inconvenience he has been caused.

Interest at 8% simple should be added to the refunded payments referred to in 3 and 4 above and calculated from the date of each payment until the date of settlement.

If RCI does not settle the complaint within 28 days of Mr F accepting the final decision, interest should be added, at the same rate as set out above, to the £350.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 10 April 2024.

Mark Hollands
Ombudsman