

## The complaint

Miss M is unhappy about the quality of a car supplied to her under a hire purchase agreement with Go Car Credit Limited (GCC).

When I refer to what Miss M has said and what GCC have said, it should also be taken to include things said on their behalf.

## What happened

In August 2022 Miss M was supplied with a used car through a hire purchase agreement with GCC. She paid an advance payment of £149. The cash price of the car was £9,649. The total amount of credit was £9,500. The duration of the agreement was over 48 months with monthly payments of £362.40, to include an administration fee of £295. There was an Option to Purchase fee of £10 added to the final payment. At the time of supply the car was more than four years old and had done 60,357 miles.

Miss M said that she complained soon after acquiring the car that there was black smoke coming from the exhaust. She says that within the first three months she contacted the company who provided the warranty, and they advised her to take the car to a garage. The garage undertook a visual inspection but did nothing further as there was no black smoke and no warning or engine management lights came on.

Miss M states the black smoke got worse, so she took the car into the garage several times to be looked at. In July 2023 the car failed its MOT due to exhaust emissions exceeded manufacturer's specified limit and the Nearside Front Coil spring was fractured or broken. Because of the MOT fail a further internal inspection of the exhaust was carried out which showed the diesel particulate filter (DPF) had failed, and the garage told her it would cost over £4,000 to repair. As Miss M could not afford this amount, she contacted GCC. Miss M says the garage also told her they believed the car had been tampered with as no error lights came on and that the car was a fire hazard and dangerous to drive.

GCC responded saying as it was over 12 months since the car had been supplied to Miss M, they would require a mechanical report showing that the faults were present or developing when the car was supplied. In response Miss M provided GCC with a fault code list and report from the garage, both dated in September 2023. The fault code list detailed 13 Diagnostic Trouble Codes (DTCs), many of which related to emission issues. In their report the garage confirmed the car had been brought into the garage several times and on the last time it had failed the emissions test during the MOT. But about the previous occasions their report said they:

'...could not fault it as no engine management light was coming on and no smoke was coming out of the exhaust after a visual inspection'.

GCC also confirmed that the car had passed its MOT in June 2022 shortly before Miss M acquired it with no advisories and so found that the faults reported were not present at the point of sale and therefore, they were not upholding her complaint.

Miss M was unhappy with this response, so she referred her complaint to the Financial Ombudsman Service for investigation.

Having reviewed the information provided, our investigator did not uphold Miss M's complaint. This was because the investigator could not find any evidence showing the fault was present or developing when Miss M acquired the car.

Miss M didn't agree with the investigator. She said the garage she had taken the car to had confirmed they had only carried out visual inspections prior to the MOT and 'knew something wasn't right as there was black residue on the exhaust but no engine management light was coming on'. She also said the garage believed the engine management lights not coming on meant the car had been tampered with and that the car was a fire risk.

Because Miss M didn't agree with the investigator, this matter has been passed to me to make a final 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.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Miss M was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we are able to investigate complaints about it.

The Consumer Rights Act 2015 (CRA) covers agreements such as the one Miss M entered into. Under this agreement, there is an implied term that the goods supplied will be of satisfactory quality. The CRA says that goods will be considered of satisfactory quality where they meet the standard that a reasonable person would consider satisfactory – taking into account the description of the goods, the price paid, and other relevant circumstances. I think in this case those relevant circumstances include, but are not limited to, the age and mileage of the car and the cash price. The CRA says the quality of the goods includes their general state and condition, as well as other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability.

In Miss M's case the car was used, the total cash price of the car was £9,649. It had covered around 60,357 miles and was more than four years old when she acquired it. So, it's reasonable to expect presence of some wear to it, as a result of its age, and I would have different expectations of it compared to a brand-new car. But, if I thought the car was faulty when Miss M took possession of it, or that the car wasn't sufficiently durable, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask GCC to put this right.

First, I considered if there was a fault with the car. I've considered evidence provided by both sides and the report from the garage and it is not in dispute that there is a fault with the car's emissions. But just because there are or were faults found with the car, does not automatically mean that the car was not of satisfactory quality at the point of supply. So, I've gone on to consider if the car was of satisfactory quality when it was supplied to Miss M.

Having reviewed all the information provided I can see there is detailed evidence of emissions related faults on the diagnostics report from September 2023, and I appreciate Miss M had taken the car to the garage due to smoke emissions several times before this.

But the report from the garage she used confirms they could find no fault on any of the previous occasions, either from a visual inspection, which found no smoke could be seen, or from engine management warning lights.

The report from the garage in September 2023 confirms some of the diagnostic test results did indicate a potential fire risk, but these tests relate to the MOT in July 2023, at which point it is accepted there was a fault with the car. Although the report also suggests that such faults 'should almost certainly put an engine management light on', there is no evidence given of any faults with the engine management lights system.

GCC have said the car passed an MOT with no advisories, just prior to Miss M acquiring it in June 2022. Since then, Miss M had travelled more than 6,000 miles in about 11 months. So, I must take into consideration how many miles the car had travelled, and amount of time that has passed, before the fault with the car's emissions and the fractured, or broken coil spring, was identified. And based on the combination of this evidence I can't say that most likely these faults were present or developing when the car was acquired by Miss M.

I appreciate Miss M will be disappointed by my decision, but I believe that the car most likely was of satisfactory quality when it was supplied and so do not think it would be right to ask GCC to do anything further in respect of Miss M's complaint. I am sorry Miss M has had to hand back the car due to the cost of the repairs and that this has caused her financial stress. I hope Miss M has been able to speak with GCC about this and that they have been able to assist her and provide support with the outstanding balance. And I'd remind GCC to treat her with forbearance and due consideration if she's in financial difficulties.

### **My final decision**

For the reasons explained, I don't uphold Miss M's complaint about Go Car Credit Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 1 October 2024.

Jo McHenry  
**Ombudsman**