

The complaint

Mr B has complained – on behalf of himself and the estate of Mrs B - that he is unhappy with the quality of a car he and Mrs B acquired in December 2022, using a hire purchase agreement with First Response Finance Ltd (“First Response”).

What happened

Mr and Mrs B acquired a used Land Rover in December 2022 using a hire purchase agreement with First Response. The car cost £6,995, of which Mr and Mrs B borrowed £5,495 over 48 months, with monthly repayments of £211. The car was just over 14 years old at the time and the mileage stated on the agreement was 79,000.

I should say here that, sadly, Mrs B passed away in February 2024. I was very sorry to see this, and I appreciate that this has been a very difficult period for Mr B. To keep things simple, I’ve mostly referred to Mr B in the rest of this decision, but I have noted that this was a joint agreement.

I should also say that I understand that, since the complaint was brought to this service, the hire purchase agreement has been voluntarily terminated, and the car sold at auction. I also understand that there is an outstanding balance to repay under the agreement. However, the voluntary termination is not the subject of this complaint, and therefore I am only considering here whether the car was of satisfactory quality at the point of supply.

Mr B said that, since acquiring the car, he’d had several problems with it. I can see that Mr B contacted First Response in April and May 2023 referring to repairs to the EGR, ball joint, control sensor unit and the diesel filter, and issues with the airbag. However, I can see that these issues were dealt with by the dealership. I also note that, at this point, Mr B had travelled over 9,000 miles since acquiring the car.

At the end of August 2023 Mr B again contacted First Response to say that the car was going into ‘limp mode’ - cutting out and having restricted performance. The car was taken to a garage, and I can see that there were issues in identifying the fault. Eventually a new fuel pump relay was fitted, and First Response offered to assist with an interest free loan to cover 75% of the repair bill, which Mr B accepted. The mileage listed in October 2023 was 93,309.

In November 2023, the car broke down again, showing the same symptoms, but the garage was unable to trace the fault. A report from the garage dated January 2024 deemed the car unsafe to drive – the fault could not be diagnosed but further road testing was declined because of the risk of an accident if the car went into limp mode while testing.

Mr B complained to First Response about all this, saying he now wanted to reject the car. First Response said that, as the cause of the fault could not be diagnosed, and given the length of time and mileage travelled since Mr B acquired the car, it did not uphold his complaint.

Mr B was not happy with this, so he brought the complaint to this service. Our investigator looked into the complaint, but didn't think it should be upheld. Mr B didn't agree and asked for it to be reviewed by an ombudsman.

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 decided not to uphold this complaint. I'll explain why.

Because First Response supplied the car under a hire purchase agreement, it's responsible for a complaint about the quality, and there's an implied term that the car was of satisfactory quality. Cars are of satisfactory quality if they are of a standard that a reasonable person would expect, taking into account all of the relevant circumstances such as (amongst other things) the age and mileage of the car and the price paid. When considering satisfactory quality, I also need to look at whether the car is durable – that is, the components within the car must be durable and last a reasonable amount of time.

In this case, of course, the car was just over 14 years old, with a mileage of 79,000, when Mr B acquired it. And the price was lower than that of a new car. So it's reasonable to expect that parts of the car would have suffered wear and tear, and that a car of this age would likely need repair and maintenance sooner than a newer car.

I've taken account of the relevant law, in particular the Consumer Rights Act 2015, ("CRA"). There are certain times, set out in the CRA, when a consumer is entitled to reject goods, in this case the car, if they don't conform to contract – a short term right to reject within 30 days of taking delivery, or a final right to reject if a repair or replacement hasn't resulted in the car subsequently conforming – that is, it then being of satisfactory quality.

First Response sent in copies of the finance agreement, its records of its contact with Mr B, and copies of breakdown reports that it had received, along with the car's MOT history. Mr B also sent in copies of the breakdown reports.

I've summarised the details of the problems with the car above, but I've read and considered all of the evidence provided by both parties. Having done so, I'm not satisfied there's enough evidence to say that the car wasn't of satisfactory quality at the point of supply. I say this for the following reasons.

As the car has now been sold, it is not available for any further independent inspection. But looking at the reports that *are* available, along with the other evidence, it appears that repairs were carried out to deal with the issues other than the car going into limp mode without warning. I've no evidence to suggest that those repairs failed, or that the issues in question were caused by anything other than reasonable wear and tear, bearing in mind the age and mileage of the car. And as far as I can see, the dealership, and First Response made reasonable attempts to put things right even though there was no obvious requirement for them to do so.

I note the restricted performance – limp mode - issue first happened at the end of August 2023, some nine months after Mr B acquired the car. The source of this fault was not confirmed, but a repair was made, which seemed to fix the issue for a short while. But it then recurred in November 2023, at which point the car was returned to the garage and again the source of the fault could not be found. The evidence shows that by this time Mr B had travelled over 14,000 miles since the car was supplied.

It seems to me that if the problem was present or developing at the point of supply, it would most likely have appeared earlier, given that Mr B had had the car for nine months when it started, and had covered somewhere between 9,000 and 14,000 miles in that time (based on the mileage figures in the evidence).

I've also kept in mind that the car was 14 years old at the point of supply, with a mileage of 79,000, so it's reasonable to think that a number of components would be coming towards the end of their useful life through reasonable wear and tear.

In summary, I understand that Mr B feel strongly about this, but overall, it seems most likely that the problems with the car arose from reasonable wear and tear. So from the evidence I have, I can't fairly say the car wasn't of satisfactory quality at the point of supply, and therefore I can't fairly require First Response to do more than it has. So I've decided not to uphold this complaint.

My final decision

For the reasons given above, I have decided not to uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and the estate of Mrs B to accept or reject my decision before 11 January 2025.

Jan Ferrari
Ombudsman