

The complaint

Mr C is unhappy that a car supplied to him under a hire purchase agreement with Advantage Finance Ltd (“Advantage”) was of an unsatisfactory quality.

When I refer to what Mr C has said and what Advantage has said, it should also be taken to include things said on their behalf.

What happened

In August 2022, Mr C was supplied with a used car priced at £5,548 through a hire purchase agreement with Advantage. The agreement was for £9,867 over 49 months, with 48 monthly payments of £197.30 and a final payment of 397.30 inclusive of the option to purchase fee. At the time of supply, the car was 11 years old, and had done 119,300 miles.

Mr C contacted Advantage to say he’d experienced small issues with the car from the start. He’d raised it with the warranty supplier, but it didn’t cover the faults. Mr C paid for the repairs, including wheel alignment, replacement speed sensors, and parts of the driveshaft. When the car displayed warning lights in February 2023, he contacted Advantage to complain.

Advantage arranged an independent inspection. The inspection report stated that some of the issues could’ve been expected given the age of the car. It also said some of the faults could’ve been anticipated given the likely level of wear evident at the time of supply. In light of the independent report, Advantage paid Mr C £425.90 to cover the repair costs he’d incurred.

Mr C accepted the settlement and the following week he confirmed the car pass the MOT.

In January 2024, Mr C contacted Advantage again. He said his car engine had broken down and was recovered to a garage. Mr C said the garage told him the car would’ve been faulty at the time of supply, so he wanted to return it as being of unsatisfactory quality.

The fault was different to the previous faults, so Advantage arranged an independent inspection. The engineer said that the car’s condition was acceptable for its age and mileage, but it appeared that it had been “*run with high oil levels which has resulted in catastrophic engine damage*”. The engineer concluded that a filter blockage was the cause of the fault, and that too much oil had created excessive pressure inside the engine. As the filter and oil levels were considered maintenance issues, Advantage didn’t agree that there’d been an underlying fault at the time of supply.

Mr C disputed the findings and arranged an inspection by another engineer. The engineer reported that the filter wasn’t the problem, and there was no evidence that the car had been run with too much oil. Rather, the engineer concluded that the faults had been developing long before the car was supplied. Mr C complained to Advantage and wanted to return the car.

Advantage didn't agree and remained of the view that it wasn't responsible for the faults. So, Mr C brought his complaint to our service for investigation.

One of our investigators said the evidence persuaded her that the fault was not present at the time of supply, so she didn't think there was anything for Advantage to put right. Notably, our investigator said the car had done 10,000 miles during the time Mr C had it, so any existing fault would likely have been noted much sooner than almost 18 months after supply.

Mr C didn't agree with our investigator. He said:

- The oil has never been high on the dipstick
- The MOT was clear when he got the car but failed in March 2023, so there must've been faults.
- He would like to Advantage to take the car back.
- The outcome was one-sided.

Because Mr C didn't agree, the complaint was passed to me to decide.

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. Mr C 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 Mr C 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.

So, if I thought the car was faulty when Mr C 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 Advantage to put this right.

Undisputed Fault

In this instance, it's not disputed there were a number of problems which had likely been present when the car was supplied to Mr C. This was confirmed by the independent engineer who inspected the car at Advantage's instruction and issued a report in March

2023. Advantage paid for the repairs and Mr C confirmed that it resolved the matter. As such, I'm satisfied that I don't need to consider the merits of this issue within my decision.

Disputed fault

The fault Mr C reported to Advantage in January 2024 was found to be unrelated to that which was repaired in March 2023. But Mr C and Advantage disagreed about the cause and whether it would've been present at the time of supply.

- Mr C's garage said, "*Oil found to be very thin which could have led to contamination from diesel. Excessive oil found to be inside of intercooler pipework... consistent with a diesel runaway situation*". The garage reported that the seals would've been leaking prior to sale and couldn't have happened within the 10,000 miles travelled since supply.
- The independent engineer instructed by Advantage said the fault was due to the car being "*run for multiple hundreds if not thousands of miles with elevated oil levels which has resulted in consequential engine damage, as it is the vehicle owners responsibility to check the oil levels on a regular basis has led us to conclusion that the engine damage has been due to driver error rather than a manufacturing material defect*".
- Mr C provided a further report from the garage, dated June 2024, which stated that the oil level was "*on the maximum level and not over filled so in my opinion not the reason for engine failure*". This report was issued after Advantage sent its final response to Mr C's complaint, so it has not had an opportunity to consider it. However, given that it was issued six months after the engine failed, and doesn't state whether it relates to a more recent inspection, I can't fairly place any significant weight on the content.

So, the position is that there are conflicting reports about the cause of the damage and whether it would've been present when the car was supplied. I've thought carefully about this and, based on the evidence available, I'm not persuaded that the fault was likely to have been present when the car was supplied.

The car had a valid MOT when it was supplied to Mr C, and I've noted that he didn't think it could've been inspected properly. That's because when he took it for an MOT in March 2023, it failed for multiple reasons. And the garage's inspection report from January 2024 stated that the oil seepage from the turbo seals, identified as the cause of the engine failure, would've been present prior to supply.

However, Mr C confirmed the car passed its MOT in April 2023. It's not clear, then, why the garage concluded in January 2024 that the fault was present prior to supply in August 2022, yet not identified during the April 2023 MOT. Given the inconsistencies, I can't fairly rely on the garage's report.

I've seen a copy of the independent engineer's report, dated 5 February 2024. In this report, the engineer concluded that, "*at time of inspection there was no evidence ... the vehicle had an underlying condition at point of sale to suggest that the engine seizure has been the direct result of a pre-existing condition. Therefore, not the responsibility of the sales agent to rectify*".

“In simplistic terms as the vehicle owners responsibility to check the oil levels regularly if this had been done vehicle owner was noted that oil levels were increasing and taken appropriate action the prevented the engine damage.”

The engineer also confirmed their duty is to the courts, not to the person who instructed or paid for the report. As such, I'm satisfied this report is reasonable to rely upon.

I've considered the age and mileage of the car, and the use Mr C has had since supply. The car was 11 years old and had done 119,300 miles. When Mr C reported the engine failure in January 2024, he'd had the car almost a year and a half; it was approaching 13 years old, and had done just under 130,000 miles. Given the age and mileage when Mr C bought the car, and his use, it's not unreasonable to expect repairs within a much shorter period than if the car had been new or just a few years old. And if the oil seepage had been present at supply, I'd have expected Mr C to have been aware of it much sooner than 17 months later.

Conclusion

Based on the evidence available, and the balance of probability when considering the conflicting information, I'm satisfied that Advantage fairly declined Mr C's request to return the car as being of unsatisfactory quality. Therefore, there's nothing here for Advantage to put right.

My final decision

For the reasons explained, I don't uphold Mr C's complaint about Advantage Finance Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 30 December 2024.

Debra Vaughan
Ombudsman