

## The complaint

Mr A has complained that he is unhappy with the quality of a car he acquired in March 2024 using a hire purchase agreement with CA Auto Finance UK Ltd (“CAAF”). He is also unhappy that CAAF did not accept his request to reject the car within the first 30 days after acquisition.

## What happened

Mr A acquired a used Land Rover in March 2024, using a hire purchase agreement with CAAF. The car cost £102,995, of which Mr A borrowed £101,995 over 49 months. The monthly repayments were £1,671.18, with a final payment of £55,823 due if Mr A wants to keep the car at the end of the agreement. The car was seven months old at the time, and CAAF said the mileage at the point of supply was 9,910.

Mr A told us he took delivery of the car on 27 March 2024. On the following day, the engine management light (EML) illuminated on the dashboard. Mr A contacted the selling dealership to report the issue and to request the point-of-sale health check report. He says he was told that the EML was not present whilst the car was in the dealership’s possession, and that it didn’t carry out a point-of-sale health check. As the car was under warranty, he should book it into a Land Rover garage. He did this, with the first available slot being in early May 2024.

On 5 April 2024, Mr A noticed the car was struggling at moderate speeds and juddering. He contacted Land Rover Roadside Assistance immediately, and the engineer inspected the car and recommended avoiding driving it, or only driving it locally until the scheduled appointment. Mr A contacted CAAF on 9 April to notify it of the situation. Mr A didn’t see any improvement in performance, so on 18 April 2024 – and therefore within the first 30 days after Mr A acquired the car – he made a complaint and told CAAF and the dealership that he wanted to reject the car. He has told us that he stopped using the car at this point, and as he had requested rejection of the car, he didn’t take the car to the Land Rover garage as originally planned.

However, Mr A said that CAAF told him the rejection of the car was not accepted as he had not kept the planned appointment, but it was still investigating the complaint. On 22 May he called out Land Rover roadside assistance, and the engineer identified the intermittent EML occurrence and carried out a software update. The engineer also arranged for the car to be booked into a Land Rover garage for further investigation. The car went into the garage on 24 May. After extensive road testing (over 1,000 miles) the garage suspected a mechanical gearbox fault. The engineer found the gearbox oil was discoloured, so flushed the system and topped it back up. The car was returned to Mr A around the end of July 2024.

CAAF issued its final response letter to Mr A on 18 July 2024. It said that it didn’t agree to rejection. CAAF said the original fault reported was the EML being illuminated; however, according to the evidence provided in the most recent Vehicle Health Check from the garage, the EML was not currently illuminated, and no-fault codes were stored. And with regard to the juddering, as this issue had not been reported earlier, it fell outside the initial 30 days for rejection. CAAF went on to say that the car should be booked in for repair under warranty.

Mr A was unhappy with the response (and disputed the statement that he had not reported the juddering early enough). So he brought his complaint to this service.

Our investigator looked into it and, and initially thought that there were ongoing issues with the car, so suggested that CAAF commission an independent inspection report, which it agreed to do. However, the inspection was not carried out, with each party then saying that the cancellation was at the request of the other party.

After clarifying the sequence of events with Mr A, our investigator then reviewed Mr A's complaint, and concluded that it should be upheld, and that there was sufficient evidence to reach this conclusion without an independent inspection report. CAAF didn't agree, saying that an independent inspection report should have been carried out, and it asked that the complaint 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 to uphold Mr A's complaint. I'll explain why.

Because CAAF 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 seven months old, with a stated mileage of less than 10,000 when Mr A 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 a degree of wear and tear, and may need repair and maintenance sooner than a brand-new car. But I've also kept in mind that this was an expensive car, so Mr A would reasonably have had high expectations of it.

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.

Mr A sent in a detailed description of the sequence of events, along with copies of the roadside assistance reports and the job sheet for the repair, the finance agreement and emails between him and CAAF and the dealership and Land Rover garage. CAAF did not provide a great deal of information, sending in its final response letter and copies of some emails. However, I'm satisfied that I have enough evidence to reach a fair conclusion, and that I do not need an independent inspection report to do so.

I'm satisfied that there were faults identified with the car – the breakdown report from 5 April showed various fault codes stored in the ECU, and a recommendation that the car not be driven where possible, and short local journeys only. And the Land Rover garage found the gearbox oil discoloured, so the system was flushed to try and resolve the issue. The vehicle

health check from the Land Rover garage confirms that the car was juddering quite frequently, leading to the checks on the gearbox.

I'm also satisfied that the faults were present or developing at the point of supply – both faults had appeared within two weeks of Mr A acquiring the car, and as I noted above, there was a recommendation to avoid driving the car where possible. Mr A had not travelled far in the car – he says he recorded the mileage on 24 May as 10,554, so much of the overall increase in the mileage can be accounted for by the extensive road testing at the Land Rover garage.

I've not seen anything to make me think that Mr S has caused or contributed to the faults occurring. And given that the problems with the car arose within the first two weeks after Mr A acquired the car, it seems most likely – as I said above - that the faults were present or developing at the point of supply. So taking all this into account, I'm not satisfied that the car was of satisfactory quality at the point of supply, and therefore I think Mr S was entitled to assert his right to reject the car within the first 30 days, as he told CAAF that he wanted to do.

I should say here that I have a copy of Mr A's email to CAAF, and although he didn't explicitly use the term 'juddering' he did say that he had observed the car struggling at moderate speeds, which led him to park the vehicle on a side road and call Land Rover Assistance. So I'm satisfied the issue was raised, along with the appearance of the EML.

So taking all this into account, I'm satisfied that it would be fair for Mr A to reject the car, and therefore I uphold this complaint.

Mr A has not used the car since 17 April 2024 because of the problems with it and because he wanted to reject it. I noted above that the increase in mileage can largely be attributed to the road testing at the dealership. I think Mr A has acted reasonably in not using the car, so I think it fair that the monthly payments he has made under the contract since 17 April be refunded.

Mr A has described the impact all of this has had on him. He told us that he has suffered a great deal of distress and inconvenience as he feels he's not been listened to. Having considered the impact of this situation on Mr A I think it fair to require CAAF to pay him £400 in recognition of this.

### **Putting things right**

CAAF should:

- end the agreement with nothing further to pay.
- collect the car at no further cost to Mr A.
- refund Mr A's deposit contribution of £1,000.
- refund to Mr A the monthly payments he has made under the contract from 17 April 2024 to the date of settlement.
- pay Mr A a further amount of £400 in recognition of the distress and inconvenience caused.
- pay 8% simple yearly interest on all refunded amounts from the date Mr A paid them to the date of settlement.
- remove any adverse information from Mr A's credit file (if any has been added) in

relation to this agreement.

\*If CAAF considers that it is required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mr A how much it's taken off. It should also give Mr A a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

### **My final decision**

For the reasons given above, I have decided to uphold Mr A's complaint and to require CA Auto Finance UK Ltd to compensate him as described above.

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

Jan Ferrari  
**Ombudsman**