

The complaint

Mr W complains that RCI Financial Services Limited trading as Mobilize Financial Services supplied him a brand-new car which was faulty from the start. Mr W would like to reject the car and receive a full refund.

What happened

I issued a provisional decision in October where I set out a detailed background to this complaint and gave both parties the opportunity to provide further comments and evidence before making a final decision.

My provisional decision forms part of this final decision and should be read alongside it. The relevant portions of my provisional decision are set out below.

Provisional decision

“What happened

Mr W acquired a new car supplied under a hire agreement from Mobilize in October 2023. The agreement was for 36 months, and Mr W was required to pay an initial deposit of around £4,500, followed by 35 monthly rentals of around £380.

The car was delivered to Mr W in November 2023, Mr W says due to illness he was unable to inspect the car until a few days after delivery. Mr W has said when he inspected the car for the first time, the parking sensor light was on.

Mr W tried to book an appointment to have the issue inspected but was unable to get a booking until 11 January 2024 due to the festive period.

When Mr W took the car in on 11 January 2024, he was told the parts needed to fix the car weren't available and they needed to be ordered and so he had to book another appointment to bring the car in to be fixed. The new parts were fitted in February 2024, but this didn't resolve the problem.

Mr W took the car back for repairs in March 2024 and has been without the car since then. When he took the car for repairs in March, he was told that there were mouse droppings, and they suggested the mice likely caused the damage. Mr W was told this wasn't covered under his warranty and the car needed to be stripped back for further investigation. Mr W was told this further investigation will cost £1,600 – the manufacturer offered to cover half the cost and Mobilize offered to contribute £300 towards the cost and Mr W was required to pay the rest.

Mr W raised a complaint with Mobilize and then referred his complaint to the Financial Ombudsman Service where it was looked at by one of our investigators. Our investigator didn't think Mobilize had acted fairly, he said the car wasn't of satisfactory quality when it was supplied to Mr W. Our investigator recommended that the complaint should be upheld and a further £150 paid to Mr W for the trouble and upset caused.

Mobilize didn't agree and so the complaint has been passed to me an ombudsman to make a decision.

What I've provisionally 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.

Mr W entered into a regulated hire agreement for a car, so I'm satisfied I can consider Mr W's complaint about Mobilize. Mobilize is also the supplier of the car under this type of agreement and is therefore responsible for a complaint about the quality of that car. The Consumer Rights Act 2015 ("CRA") is particularly relevant to this complaint. It says that under a contract to supply goods, it is an implied term that the goods will be of satisfactory quality.

The CRA says that the quality of the goods includes their general state and condition, fitness for purpose, appearance and finish, freedom from minor defects, safety and durability. It says that the goods are of satisfactory quality if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, the price and all other relevant circumstances. In the case of the goods being a car, I think the other relevant circumstances would include things such as the car's age and mileage.

In this case Mr W was supplied with a new car, so what would be considered satisfactory would be different to if it had been used. There appears to be no dispute that the car has a fault – in that the parking sensors are not functioning and despite a repair attempt continue to not operate as intended. What is left for me to decide is whether the fault being present means the car isn't of satisfactory quality, and if so, what, if anything, Mobilize needs to do to put things right.

Mr W reported the parking sensor fault within a few days of taking delivery of the car. However, he was unable to get an appointment until January 2024. Given that this was a new car, it is unusual for there to be a need to book repairs on a new car within such a short time.

I think a reasonable person in Mr W's position would expect the new car he'd only recently taken delivery of to be in full working order without the need for immediate repairs. Despite the delay with being able to book a repair, when Mr W finally took the car in for a repair, the job sheets and information I've seen suggest the initial inspection of the car showed there was problem with the parking sensor that needed to be replaced. It was only after this was done and it became apparent that replacing the part didn't solve the problem was there mention of the damage being potentially caused by mice. Had the mice been the cause, I'd have expected this to be identified in the first instance.

I'm also concerned that Mobilize and the manufacturer aren't themselves satisfied that the cause of the fault is indeed mice from when the car was in Mr W's possession. I say this because Mobilize has said the £1,600 is the cost to strip the car to determine the cause of the fault. I note the garage that inspected the car has provided photos showing what it believes to be evidence of a mouse having been in the car, but I'm not persuaded that the images are conclusive, nor is there anything in the images to demonstrate any damage to the wiring by a rodent (or otherwise).

In the circumstances, it seems more likely that there was a fault with the car at the time it was delivered. Mobilize has tried to repair the car on more than one occasion and has been unable to repair or even confirm conclusively what the cause of the fault is. I don't think, on balance, that Mobilize supplied Mr W with a car that was of satisfactory quality from the start. And as a repair has already been attempted and was unsuccessful, I'm satisfied Mr W is entitled to reject the car.

I've also thought about the length of time Mr W has been without the car, Mr W hasn't had the car since March 2024 through no fault of his and I don't think it's fair for him to pay for the months he didn't have use of the car.

Mr W has also said the issue with the car has caused him stress and anxiety. I can understand why the circumstances here would be stressful for Mr W. Mr W was expecting the new car to function as such but that wasn't the case, the parking sensor fault would have been an inconvenience. Mr W also hasn't had use of the car for some months now and has had to deal with garages, Mobilize and even the manufacturer in an attempt to resolve the problem, which up until now isn't clear or resolved. I think this caused Mr W anxiety and stress and Mobilize should pay some compensation in recognition of this."

End

The time to respond to my provisional decision has now expired. Mr W accepts my provisional decision but Mobilize doesn't.

In summary it says I'm incorrect that it and the other third parties involved are uncertain about rodents causing the damage to the car. It says the sensor lights are a secondary issue and the primary issue is rodents chewing through the wiring in the car and causing damage. Mobilize also says I'm wrong when I said the purpose of stripping the car back was to determine the fault, it says the strip back is needed to determine the extent of the damage caused by the rodents. Mobilize says it delivered a car without fault to Mr W and the damage to the car occurred while the car was in Mr W's possession.

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.

Mobilize says the parking sensor was a secondary issue and the technicians replaced the sensor initially after a visual wiring check. I'm mindful in its correspondence with this service Mobilize has told us there was no job cards to establish it was damage caused by rodents, but this was obvious from a visual check. Firstly, this is an assumption and if there was a visual check of the wiring at the time the sensor was repaired, I think it would have been reasonable for the rodent damage to have been visible at that point as Mobilize claim it later was, through visual inspection. Also, this was a brand-new car and it is unusual for there to have been a defect with the sensors so soon after delivery. I think it would have been reasonable for a proper diagnosis to be carried out in the first instance.

Mobilize has also said the primary issue with the warning light was caused by rodents chewing the wiring and so the replacement of the sensor should be deemed as part of the diagnostic process rather than a repair. I'm not persuaded by Mobilize's point here, in my opinion, I think it had a chance to diagnose the correct problem from the start and repair it under the CRA 2015 but that didn't happen and so it carried out a repair that wasn't sufficient to resolve the problem. I do not consider the ordering of new parts and changing of the sensor in this case as part of the diagnostic process.

Also, when this service asked Mobilize to confirm what the quoted cost of £1,600 was for, it said *"...the £1,600.00 is the cost of stripping the wiring down to confirm the cause of the issue."* This stands in direct contradiction with Mobilize's response to my provisional decision where it says the cause of the damage isn't in dispute and the cost here is to strip back the car to ascertain the extent of the damage. I'm not persuaded there is clarity on the cause of damage.

I've also considered the pictures sent by Mobilize and I can see they show some damage to the carpet – there are other coloured fabrics on the carpet that suggest there are pieces Mobilize refer to as damage that may not be from the carpet in the car. I say this because the carpet in the car is obviously black, but I can see streaks of blue and red fabric which

don't appear to be from the same carpet. Mobilize has also provide pictures which it says show chewed wiring, but this isn't visible from the pictures provided. The other picture Mobilize has referred to, it says show rodent droppings, I'm not persuaded that these are in fact rodent droppings. One of the pictures show white particles which could be synthetic, and the other picture shows a substance that looks like mud.

The dealer has given an opinion that it believes the presence of rodents caused the damage, I'm mindful that the dealer isn't an expert in rodents and while it's entitled to its opinion, I'm not persuaded that this is sufficient evidence based on all the circumstances in this case.

In any event, even if I were wrong that the damage was caused by rodents, the issue here is that Mr W hired a brand-new car and was within his right to expect a high-quality car without defects. Mobilize has argued that it supplied the car without mechanical faults and that rodents caused damage to the car while it was in Mr W's possession. I have to decide this case on the balance of probabilities. Mr W has said he believes the fault was there when the car was delivered as the light on the dash came on the first time he turned the engine on. The car was delivered on the back of a truck, based on the available evidence, neither the dealer nor Mr W turned the engine on the day it was delivered. I'm not persuaded given the overall circumstances here that the damage occurred while in Mr W's possession, It is more likely there was a fault with the car from the start, one that Mobilize says it needs £1,600 to fully analyse (four times the cost of Mr M W's monthly rental) and which its repair costs could be even higher. The car doesn't meet the expectation of a brand-new car and in the circumstances, Mr W is entitled to reject it.

Mobilize needs to put things right.

Putting things right – what Mobilize should do to put things right

Mr W had use of the car for 4 months even though it had a fault. While the fault was inconvenient Mr W could still use the car for those months and I think it's fair he pays for the months he had use of the car.

Mobilize should take the following steps to put things right for Mr W.

- End the agreement with nothing further to pay.
- Refund, on a pro-rata basis, the advance payment for spread rentals, so Mr W isn't paying for any period he won't be hiring the car for.
- Refund all rental payments Mr W made after March 2024 onwards.
- Refund any extras charged on the agreement.
- Add 8% simple interest† per year on any refund from the date they were made to the date of settlement.
- Pay Mr W compensation of £150 for the stress and anxiety caused. If Mobilize doesn't pay this £150 compensation within 28 days of the date on which we tell it Mr W accepts my final decision, then it must also pay 8% simple yearly interest on his from the date of my final decision to the date of payment.

† HM Revenue & Customs requires Halifax to take off tax from this interest. Mobilize must give Mr W a certificate showing how much tax it has taken off if he asks for one.

My final decision

For the reasons given above and in my provisional decision, I uphold Mr W's complaint and direct RCI Financial Services Limited trading as Mobilize Financial Services to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 12 December 2024.

Oyetola Oduola
Ombudsman