

## **The complaint**

Miss P is unhappy with a car she got using a hire purchase agreement from Lendable Ltd trading as Autolend.

## **What happened**

Miss P acquired her car using a hire purchase agreement from Lendable on 1 June 2023 for £6,700. It had covered 66,643 miles and was around eight years old.

On 11 June 2023 Miss P contacted the dealership because she was unhappy with the car. She told them the air conditioning wasn't working and she would like to reject it as it wasn't fit for purpose. The dealership said it was likely the air conditioning system needed to be re-gassed so didn't agree that Miss P could reject the car. Instead, they arranged for an inspection to take place at a local garage.

Unfortunately, Miss P couldn't attend the appointment due to illness. She also raised concerns over the suitability of the garage to decide on whether the car was of a satisfactory quality.

Unable to progress further with the rejection of the car until an inspection was completed, Miss P decided to rearrange the booking. On 31 July 2023 the garage originally chosen by the dealership provided an invoice of work. It said the mileage of the car was now 67,643. It advised that a head gasket test had been carried out and no issues were found. It also said that the car was working fine overall.

In August Miss P formally contacted Lendable about the rejection of her car. Around a month later, they issued a final response letter saying that because the garage invoice said the car was working fine, Miss P couldn't reject it.

Miss P had some personal and health issues which meant she couldn't continue to progress her case as quickly as she would've wanted. Unhappy with Lendable's response, she eventually organised and paid for an independent inspection report on 9 November 2023. The report concluded that there were combustion gases in the cooling system and the air conditioning was inoperative. It said that the combustion gases in the cooling system would be consistent with head gasket failure. In the opinion of the independent inspector, it was felt that the issues would've been present or in development at the point of sale.

Lendable didn't think that Miss P had the right to reject her car. They said this because there was no evidence there was a fault within the first 30 days of Miss P acquiring it. And so, they didn't believe she could exercise her short term rejection rights. Instead, they believed that they should have an opportunity to repair the car instead.

Lendable and the dealership also raised concerns that Miss P had caused damage to the car by driving it when there was a head gasket failure.

Following receipt of the independent inspector's report, and after discussions with the dealership, it was agreed that Miss P could return the car as a gesture of goodwill. They

deducted money from her deposit for the miles she had driven the car for. They said they would continue to record adverse information on her credit file because she hadn't made any payments towards her agreement. They also didn't believe she was due any compensation.

Unhappy with Lendable's response to her complaint, Miss P asked us to look into her case.

One of our investigators said he believed Miss P should be able to exercise her short-term right to reject because of the problems with the air conditioning. He said they should remove all credit data reported, refund the money they kept for usage of the car and refund the £276 cost for the independent report Miss P paid for. He also said Lendable should pay £250 to recognise the distress and inconvenience caused by their errors.

Lendable disagreed with our investigator's findings, so the case was passed to me to review.

I sent Miss P and Lendable my provisional decision on this case, on 3 December 2024. I explained why I think the complaint should be upheld. A copy of my provisional findings is included below.

*Miss P acquired her car using a hire purchase agreement and so The Consumer Rights Act 2015 (CRA) is the relevant legislation for this complaint. The Act sets out expectations and requirements around the quality of goods supplied. In summary, goods should be of satisfactory quality. Satisfactory quality is essentially based upon what a reasonable person would consider to be satisfactory. In instances like this when considering the quality of a car, the age, mileage and price are some of the things that I think would be considered to be reasonable to take into account.*

*The CRA gives consumers 30 days to reject the goods if they are deemed to be faulty when supplied. If the purchased goods are found to be defective after 30 days but within six months, then the supplier must be given one opportunity to repair or replace the goods.*

*Miss P made the dealership aware that the air conditioning of the car wasn't working one day after getting it. They arranged for a garage local to Miss P to look into the issues.*

*Miss P expressed concerns about whether the garage was qualified to inspect the car. I've noted that the invoice it provided is quite brief. And it is also my understanding that the garage didn't have facilities to re-gas the air conditioning unit when that was the main problem Miss P was experiencing. The invoice also didn't specifically mention the air conditioning. Overall, I'm not persuaded that the report shows that the car was of satisfactory quality.*

*I've also looked at the findings of the independent inspector's report. At the time of the report the car's mileage was 68,585 so I don't think Miss P had driven it a significant amount. The report noted that the air conditioning unit was inoperative and would have been present or developing at the time of sale.*

*Miss P reported problems with the car's air conditioning within the first 30 days of acquiring it. And so, I've thought about whether this would constitute as the car not being of 'satisfactory' quality as set out in the CRA. In doing so, I've taken into account that the car was around eight years old when it was sold. And because of this I would expect a 'reasonable person' to expect some wear and tear in accordance with its age.*

*It follows that I don't think it would've been reasonable for an automatic rejection to take place for the air conditioning issue alone. I say this because, I think the air conditioning is a part which I would expect to need servicing. So, taking this, and the age of the car into account, I think a repair would've been more appropriate for this issue alone.*

*I need to bear in mind that the independent inspection report also identified a problem with the head gasket. As this was identified 30 days after the car was acquired, Lendable would be entitled to attempt a repair first.*

*However, Lendable and the dealership have already agreed for the car to be returned as a gesture of goodwill. Considering there were issues with both the head gasket and the air conditioning unit, I think allowing Miss P to formally reject the car is now the most appropriate remedy under the CRA.*

*I've considered that Miss P paid £276 for the independent report to be carried out. This report showed the car did have issues which ultimately led to its rejection. And so, I think Lendable should refund Miss P this cost. Lendable should also pay her 8% interest on this amount from the date Miss P paid for the report on 23 October 2023 to the date of settlement. This is because Miss P hasn't had use of these funds since she made the payment.*

*Lendable has retained £509.99 of Miss P's deposit amount as a fair usage charge based on the miles the car had been driven. Considering Miss P didn't make any payments under her agreement since she acquired the car, I don't think it was unreasonable for this amount to be kept.*

*The business has said that Miss P caused further damage to the car by driving it when she thought there was something wrong with it. I've noted that Miss P travelled 2,000 miles over the six months she had the car which I don't think is a significant amount. She has said she deliberately avoided using the car unless she really needed to because of the concerns she had. This was despite being repeatedly told by the dealership and Lendable that there wasn't anything wrong with it. Because she had been told that there wasn't anything wrong with the car, I don't think she did anything wrong continuing to drive it.*

*Miss P has explained that she was a carer for her son and was having health issues throughout the time all this was happening. She had been clear that there were issues with the car and was largely dismissed by Lendable. There have also been occasions where Lendable have said that she didn't reply to their correspondence when she did. I can understand why Miss P was frustrated with the communications she received from Lendable – especially taking into account the context of her wider responsibilities and poor health. I think the tone of some of the emails to Miss P weren't appropriate and I don't think it was fair that she was criticised for driving a car she had been told was fine to drive.*

*And so, because of this, I think Lendable should pay £250 to acknowledge the distress and inconvenience they have caused. This reflects the way Miss P was treated by Lendable and the impact the treatment had on her, particularly considering her circumstances.*

Lendable replied to my decision and said that as Miss P used the car but didn't make her payments, they didn't think it was fair to remove any adverse information from the details held with the credit reference agencies. They also said that they tried to assist Miss P but didn't hear back from her.

Miss P replied saying she accepted my decision, but she didn't think the amount of compensation awarded reflected the distress she had suffered. In summary, Miss P said she had seven months of worry and stress plus the practical implications of not having reliable transport which could've been avoided.

### **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 considered both Miss P's and Lendable's comments, but I see no reason to depart from my original decision.

I understand Miss P had some use of the car while she didn't make payments but Lendable retained some of Miss P's deposit for this use. Miss P had significantly reduced her usage because of the problems with the car and it has now been established that it wasn't of satisfactory quality. And so, it follows that as part of the agreement being unwound, any adverse information should be removed from Miss P's details held with the credit reference agencies.

I've carefully considered the distress and inconvenience Miss P experienced but for the reasons I've already explained, I think the compensation amount of £250 is fair.

### **Putting things right**

My final decision is that I uphold this complaint and require Lendable Ltd trading as Autolend to:

1. Remove any adverse information about Miss P's hire purchase agreement from the details held with credit reference agencies.
2. Reimburse Miss P for the cost of the independent report of £276.
3. Add 8% simple interest on part two of this settlement from the date Miss P paid for the report to the date of settlement\*; and
4. Pay Miss P £250 for the distress and inconvenience caused.

\*Lendable must pay these amounts within 28 days of the date on which we tell them Miss P accepts my final decision. If they pay later than this, they must also pay interest on the settlement amount from the date of final decision to the date of payment at 8% a year simple.

If Lendable deducts tax from any interest they pay to Miss P, they should provide Miss P with a tax deduction certificate if she asks for one, so she can reclaim the tax from the tax authorities if appropriate.

### **My final decision**

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 13 January 2025.

Ami Bains  
**Ombudsman**