

## **The complaint**

Mr P complains about the quality of a car he has been financing through an agreement with STARTLINE MOTOR FINANCE LIMITED ("Startline").

## **What happened**

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead I'll focus on giving my reasons for my decision.

## **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 know it will disappoint Startline, but I agree with the investigator's opinion. Please let me explain why.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Mr P acquired his car under a hire purchase agreement. This is a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

The relevant law says, amongst other things, that the car should have been of satisfactory quality when supplied. If it wasn't then Startline, who are also the supplier of the car, are responsible. The relevant law also says the quality of goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, the price and all the other relevant circumstances.

In a case like this which involves a car the other relevant circumstances would include things like the age and mileage at the time the car was supplied to Mr P. The car here was about eight years old and had already completed about 85,000 miles when supplied. So, I think a reasonable person would expect some wear and tear to be present, but I don't think they'd expect the engine to fail so soon. I think that would be considered a premature failure. The relevant legislation asks us to consider whether a failure is premature as it says we should consider whether goods have proven durable. I think it's reasonable to suggest that an engine and indeed a fuel rail should last the lifetime of a car and that a failure after 90,000 miles would be considered premature. I'm therefore persuaded that on the evidence available to me this car hasn't been durable and was of unsatisfactory quality.

The relevant legislation explains that if the fault occurs within the first six months, as is the case here, we are to assume it was present at the point of supply, when Startline were responsible for the car's quality. The onus is therefore on them to demonstrate that the engine fault wasn't developing when the car was supplied and wasn't due to a durability issue but something else e.g. poor servicing.

I don't think Startline have been able to provide sufficient evidence to demonstrate that. Startline say that's because they were denied an opportunity to inspect the car as Mr P simply ploughed ahead with repairs at the garage of his choice. I'm not persuaded by that argument.

I say that because I can see Mr P contacted Startline before any repairs were approved. Startline's system notes show that he first contacted them on 27 May 2021. At that point the system notes show he was wrongly advised that it was for him to obtain an independent report to demonstrate who was responsible for the fault. That wasn't the case as the relevant legislation puts the onus on the *business* to demonstrate that when the fault happens so early into the agreement.

Startline say that Mr P didn't provide any evidence of the fault, but I don't think that was the case either. Startline have explained to us that Mr P's preferred garage were in touch with them on 7 June 2021 before the repairs commenced. The garage explained that there was a fault with the fuel pressure.

So, I think Startline were aware that there was a fault with the car and that they had ample opportunity to commission their own investigation or authorise a repair elsewhere. I don't think Mr P denied them that opportunity and indeed I can see that he regularly chased the business for advice on what to do next to get the car fixed.

The garage of Mr P's choice identified that fuel pressure was low and changed the fuel rail and sensor. Mr P paid for that repair, but it didn't work as the garage subsequently identified there is damage to the engine. I've thought about whether Startline should be held responsible for that repair cost and I think they should. I say that because I think it very likely a fuel rail replacement would have been the starting point for any repair here. The garage have shown the pressure was too low and Startline haven't provided any alternative actions.

### **Putting things right**

The relevant legislation allows a business one opportunity to repair a fault that is present at the point of supply. I've considered whether it would be appropriate and fair to allow Startline to complete the repair that is now required to the engine, but I'm not persuaded that would be the most reasonable course of action here. That's because it seems a new engine is required and that would be unlikely to be cost effective given the car's current valuation. And also, because I think Startline had the opportunity to fix the car in May 2021 when Mr P first referred the issue to them; and Mr P has been waiting too long for a resolution.

So, Startline should collect the car at no cost to Mr P and they should end the finance agreement.

Startline should refund the £1,543.33 Mr P paid to have the fuel rail replaced and they should add interest to that refund.

I'm not persuaded to tell Startline to refund the cost Mr P incurred recovering his car to (and potentially from) the garage for repair. This car had already completed quite a high mileage and I think some mechanical problems (but not these) would have been anticipated. Mr P would have been wise to ensure the car was covered for emergency breakdowns and had

he done that he could have mitigated the cost to recover the vehicle.

Mr P has been inconvenienced by these issues. He's had to have the car recovered and he's been wrongly advised by Startline. He's also had to escalate his complaint to this service when I think it could have been resolved earlier and he's experienced significant delays waiting for Startline to respond. He's also explained that the whole experience has negatively affected his mental health. In those circumstances Startline should pay Mr P £225 compensation for the distress and inconvenience he's experienced.

Mr P has been without the car, or any courtesy vehicle since 26 May 2021. Startline should therefore refund any finance instalments Mr P has paid them during this period (or waive them if they haven't been paid). They'll need to add interest to that refund too.

### **My final decision**

For the reasons I've given above I uphold this complaint and tell STARTLINE MOTOR FINANCE LIMITED to:

- End the agreement and collect the car at no cost to Mr P.
- Refund the cost of repairing the fuel rail which was £1,543.33. Add 8% simple interest\* per year to this refund from the date of payment to the date of settlement.
- Refund (or waive) any finance instalments Mr P has paid since the car broke down on 26 May 2021. Add 8% simple interest per year to this refund from the date of payment to the date of settlement.
- Pay Mr P £225 compensation to reflect the distress and inconvenience caused.
- Remove any adverse information they may have reported to his credit file in relation to these issues.

\*If HM Revenue & Customs requires Startline to take off tax from this interest. Startline must give Mr P a certificate showing how much tax it's taken off if he asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 19 April 2022.

Phillip McMahon  
**Ombudsman**