

## **The complaint**

Mr W complains that a car acquired with finance from Startline Motor Finance Limited wasn't of satisfactory quality.

## **What happened**

In August 2021 Mr W was supplied with a car and entered into a hire purchase agreement with Startline. At the point of supply, the car was around 10 years old and had covered just under 99,000 miles.

In December 2021 the car broke down. Mr W contacted the supplying dealer and the broker and provided a diagnostic report and quote from a third party garage which said the engine needed to be replaced. The broker arranged for an independent inspection of the car.

Mr W wasn't happy with what the inspection report said so he complained to Startline.

In response, Startline relied on the inspection report and said there was no evidence that the fault was present or developing at the point of supply.

Mr W remained unhappy and complained to this service.

Our investigator upheld the complaint. She said that because the engine had failed only three months after the car was supplied to Mr W, she didn't think the car was sufficiently durable. The investigator said that because the quote for repairs exceeded the value of the car, the fairest way to resolve the complaint was a rejection.

Startline didn't agree so I've been asked to make a final 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.

The Consumer Rights Act 2015 is relevant to this complaint. This says that goods must be of satisfactory quality when supplied. Cars are of satisfactory quality if they are of a standard that a reasonable person would regard as acceptable, taking into account factors such as the age and mileage of the car and the price paid. The quality of goods includes their general state and condition, and other things like fitness for purpose, freedom from minor defects, appearance and finish, safety and durability.

I'd expect a second hand car such as that supplied to Mr W to have a degree of wear and tear and to require more repairs and maintenance than a brand new car. So, in order to uphold this complaint, I would need to be satisfied that the car had a defect which made it of unsatisfactory quality, as opposed to a fault caused by general wear and tear.

I've looked at the report from the third party garage and the independent report. Based on what I've seen in the reports, I'm satisfied that there's a fault with the car. The independent report states that there is a rattling noise from the engine and that the engine will need to be

dismantled for further investigation. The third party garage report states that the car needs a new engine and included a quote for repair costs of £9,551.75.

I've gone on to consider whether the fault means that the car wasn't of satisfactory quality when supplied. Startline relies on the independent inspection report which states that the car displays internal engine faults which would not have been present or developing at the point of supply. On this basis, Startline doesn't accept responsibility for the fault.

However, the independent inspection report also states that the engine needs to be dismantled for further investigations. The report identifies undue engine noise. There's no diagnosis of the fault in the report. Based on what I've read in the report, I'm not persuaded that the engineer reasonably concluded that the faults weren't present at the point of supply.

The available evidence shows that the engine failed around 3 months after the car was supplied to Mr W. During this time the car had travelled around 3600 miles. Under the relevant legislation, where a fault occurs in the first 6 months, there's a presumption that the fault was present or developing at the point of supply.

Just because there's a fault doesn't mean that the car wasn't of satisfactory quality. However, in this case, there's enough information for me to safely conclude that the engine wasn't sufficiently durable. I don't think a reasonable person would expect an engine to fail within 3 months of the car being supplied or after only 3600 miles. For these reasons I'm persuaded that the car wasn't sufficiently durable and not of satisfactory quality.

### **Putting things right**

Under the relevant legislation, the business is allowed one opportunity to repair the fault. But where this doesn't make commercial sense, as is the case here (because the cost of repairs exceed the value of the car) then rejection is an appropriate remedy.

I think it's fair that Mr W is allowed to reject the car.

### **My final decision**

My final decision is that I uphold the complaint. Startline Motor Finance Limited must:

End the agreement with nothing further to pay

Arrange for the car to be collected at no cost to Mr W

Reimburse Mr W the towing costs he incurred in having the car moved from the third party garage of £60

Refund the deposit of £3500 and pay simple interest of 8% per year on this sum from the date of payment to the date of settlement

Refund the monthly payments made by Mr W since December 2021

Pay Mr W compensation of £200 for distress and inconvenience

Remove any adverse information relating to the agreement from Mr W's credit file

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 6 February 2023.

Emma Davy  
**Ombudsman**