

## The complaint

Mr B complains about the quality of a car that was supplied to him under a hire purchase agreement with Startline Motor Finance Limited.

## What happened

On 14 January 2022 Mr B took out a hire purchase agreement with Startline for a used car. The car was around six and a half years old and had travelled approximately 75,515 miles. The cash price was £6,999.

Mr B has told us that the oil sump cover fell off on the way home on the day he got the car. He says he discovered the coolant tank was completely empty, and that he couldn't get a clear indication of the oil level on the dipstick. He says he contacted the dealer, who agreed to book it in for repair.

Mr B says an alarm and oil warning light came on a few days later, after he'd only travelled around 30 miles in the car. He's told us that once this warning had come on, it came on again every few minutes until the engine was switched off. He says he contacted the dealer again to tell them about this, expecting it to be fixed at the same time as the other issues he'd complained about.

Mr B has told us that the car went in for repair on 10 February 2022, as agreed, but the issue with the oil warning wasn't resolved. He says it continued to come on intermittently after the car had been driven for about an hour or 40 miles.

Mr B says that on 14 May 2022, whilst driving on a dual carriageway, the car suddenly revved up to 7,000 rpm with a large amount of black smoke coming out of the exhaust. He says he had to switch the ignition off to stop it. He's told us that this was quite a scary experience, as his partner and young child were in the car with him at the time. He says he hasn't driven the car since then because he doesn't feel it's safe.

Mr B made a complaint to Startline, who arranged for an independent engineer to inspect the car on 7 July 2022. The engineer's report recorded the car to have travelled around 80,042 miles at that time. It concluded:

*"all the evidence presented does indicate that the vehicle is suffering an intermittent issue with the oil pressure warning light, exactly when this occurred is impossible to say".*

*"investigation and rectification is required imminently to prevent the possibility of consequential engine damage."*

Startline didn't provide a final response to Mr B's complaint, so one of our investigators looked into what had happened.

Our investigator didn't think the car had been of satisfactory quality when it was supplied to Mr B. As the dealer had already had an opportunity to repair the car, the investigator thought

it was fair that Mr B should now be able to reject it. So, he said Startline should end the agreement and collect the car at no further cost to Mr B.

The investigator was satisfied that Mr B had use of the car until 14 May 2022, so he thought it was fair that he should pay for that. But he said Mr B should receive a refund of the monthly rentals he'd paid from that point onwards.

The investigator thought Startline should reimburse Mr B for the diagnostic report he'd obtained and that they should pay him £150 compensation for the distress and inconvenience caused by the car being of unsatisfactory quality. He also thought Startline should remove any adverse information that had been recorded on Mr B's credit file about the agreement.

Mr B accepted our investigator's view. Startline didn't respond, so the matter has come to me for a final decision.

After reviewing all the information provided, I wrote to both parties setting out my initial thoughts on the case. I said I agreed with our investigator that the complaint should be upheld - and that I also agreed with most of his recommendations as to what Startline should do to put things right for Mr B.

But I said I thought the amount Startline should pay for the distress and inconvenience caused should be increased to £500, due to information Mr B had shared with us about his personal circumstances. I asked both parties to send me any further information or comments they'd like me to consider before I made my final decision.

Mr B responded, saying he had nothing further to add. I received no further comments or information from Startline.

### **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.

Mr B entered into a hire purchase agreement, so this service can consider complaints relating to it. Under this type of agreement, Startline is also the supplier of the car and is therefore responsible for a complaint about its quality.

When considering what's fair and reasonable, I take into account relevant law and regulations. The Consumer Rights Act 2015 (CRA) is relevant to this complaint. It says that under a contract to supply goods, there's an implied term that the quality of the goods is satisfactory. It explains that things like fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability can be aspects of the quality of goods.

The standard that's applied is whether a reasonable person would consider the quality of the goods to be satisfactory, taking into account the way they were described, the price and all the other relevant circumstances. It seems likely that in a case involving a car, the relevant circumstances a court would take into account might include things like its age, mileage, and history.

In this case, I bear in mind that the car was around six and a half years old when it was supplied to Mr B. It cost £6,999, which is significantly less than it would've cost when it was new. Although I haven't seen any supporting evidence to confirm the car's mileage at that time, it isn't disputed that it had covered around 75,500 miles.

I don't think a buyer would expect this car to be in perfect condition - I think they'd probably expect some parts to have suffered a bit of wear and tear. But I do think they'd still expect it to be free from anything other than minor faults when it was supplied - and to be able to drive the car for a reasonable amount of time without major issues.

I'm satisfied that there's now a fault with the car, because the independent engineer's report says *"all the evidence presented does indicate that the vehicle is suffering an intermittent issue with the oil pressure warning light"*.

Mr B has told us that, on the last occasion the car was driven, the engine revved up to around 7,000 rpm whilst emitting lots of black smoke, and the only way he could stop it was by switching off the ignition. Also, the independent engineer's report concludes *"investigation and rectification is required imminently to prevent the possibility of consequential engine damage."* So I'm satisfied that this was a significant fault.

For these reasons, I don't consider the car to have been of satisfactory quality at the time of the independent engineer's inspection. The point for me to decide is whether it was of satisfactory quality when Startline supplied it to Mr B in January 2022.

I note the independent engineer's conclusions state:

*"If it is accepted that Mr B reported the issues shortly after the date of purchase, the sales agent should be responsible for the investigation and rectification costs on the grounds of durability."*

So I've considered what the evidence shows about when Mr B first reported this issue.

Mr B has shown us a screenshot of a conversation he had with the dealer by text, which I've reviewed. The dealer sent Mr B a text message on 7 February 2022, confirming the car was booked in later that week. Mr B replied, saying he'd send a video of the oil light using an instant messaging app. The dealer responded saying: *"That's ok we will just do it anyway"*.

Mr B has also provided a screenshot which confirms a video clip of the car's dashboard was sent to the dealer using the instant messaging app, as promised. He's provided a copy of that video clip, which shows an alarm and warning light coming on whilst the car was being driven. Although I haven't seen anything to confirm the date this video was made, I could clearly see the odometer showed 76,116 miles. So, I'm satisfied that the car had only covered around 600 miles since it was supplied to Mr B.

Having reviewed this evidence, I'm satisfied that Mr B told the dealer about the oil pressure warning problem within the first four weeks and 600 miles' use of the car. Given how quickly this came to light, I find it most likely that the issue causing the oil pressure warning was already present or developing when the car was supplied to Mr B. So, I don't consider the car to have been of satisfactory quality when it was supplied.

### **Putting things right**

I've seen evidence showing Mr B took the car back to the dealer for repair on 10 February 2022. After that repair, I think he was entitled to expect the car to be of satisfactory quality. As the independent engineer's report confirms more investigation and repair work is required, I think Mr B should now be given his final right to reject the car. This means the agreement should come to an end, and Startline should arrange for the car to be collected at no cost to Mr B.

I haven't seen anything to suggest Mr B wasn't able to make full use of the car until the incident on 14 May 2022. I think it's fair that he should pay Startline for the four months' use he's had. But Mr B told us that he hasn't used the car at all since that incident. So I think it would be fair for Startline to refund any payments he made after this date. If Startline have recorded any adverse information on Mr B's credit file about payments that would have fallen due after 14 May 2022, then it should be removed.

I've seen evidence showing Mr B paid £48 for a diagnostic report on the car, in support of his complaint to Startline. I think they should reimburse him for this.

I think the incident on the dual carriageway would have been frightening and stressful. I also note that Mr B has been put to the inconvenience of having to make arrangements to get a diagnostic report on the car, as well as making alternative travel arrangements.

Mr B has told us that he suffers with anxiety, and that he has medication to help him sleep. He says the problems with the car caused him to wake up during the night, having panic attacks. He's also told us that his father sadly passed away during this period, and that the problems with the car added to his distress. He's provided evidence showing he had to hire a car to travel to his father's funeral.

I'm very sorry to hear about Mr B's loss. I can appreciate that the problems with the car would have added to his anxiety. I've seen a copy of an email Mr B sent Startline on 21 June 2022, in which he told them about these circumstances and the tremendous amount of stress he was experiencing. But I note that Startline didn't provide a final response to his complaint.

Having thought about all of this, I think Startline should pay Mr B £500 compensation for the distress and inconvenience he's been caused due to the problems with the car.

### **My final decision**

For the reasons I've explained, I uphold this complaint and direct Startline Motor Finance Limited to:

- End the agreement, with no requirement for Mr B to make any repayments that would otherwise have become due after 14 May 2022.
- Make arrangements for the car to be collected, at no cost to Mr B.
- Refund any monthly payments Mr B has made for the period since 14 May 2022.
- Reimburse Mr B £48 for the diagnostic report he obtained on 23 May 2022.
- Pay interest on the above amounts, calculated from the date of payment until the date of settlement at 8% simple per year.
- Pay Mr B £500 for the distress and inconvenience he's been caused.
- Remove any adverse information recorded on Mr B's credit file about this agreement since 14 May 2022.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 13 April 2023.

Corinne Brown  
**Ombudsman**