

The complaint

Mr I complains about the quality of a car he financed with Secure Trust Bank Plc.

What happened

In March 2022 Mr I entered a hire purchase agreement with Secure Trust for a car that was nine years old and had travelled 80,227 miles. The cash price was £8,995, Mr I paid a £2,000 deposit and he agreed to repay £10,812 over 59 monthly instalments of £146.70, plus a final payment of £156.70.

In August 2022 Mr I contacted Secure Trust to advise the car had broken down and a vehicle health check had confirmed numerous faults with the car, including, cracked headlight, air conditioning issue, suspension spring broken, front and rear brake pads worn, audio system inoperable and a rattling turbo actuator, he was quoted £5,221.61 for the repairs. Secure Trust advised Mr I to get in touch with the dealership for it to inspect the car and carry out repairs. Mr I contacted Secure Trust again in September 2022, he wasn't finding the dealership helpful, so he asked Secure Trust to assist. Secure Trust arranged for the car to be recovered back to the dealership.

Mr I advised Secure Trust that despite having the car, the dealership hadn't completed all the repairs. The dealership repaired the cracked headlight, it said the oil was low and hadn't been topped up by Mr I. It thought the remaining issues related to wear and tear and serviceable items.

An independent inspection was arranged in November 2022. At the date of the inspection the recorded mileage was 85,175. The independent engineer confirmed the oil levels were critically low, and once oil was added, the car was able to start, and be test driven. The report concluded that the issues listed by the health check were all due to normal wear and tear, given the age and mileage of the car and didn't think the serviceable components that had failed, had done so prematurely. Secure Trust didn't think it was responsible for any outstanding faults, as they were due to normal wear and tear.

Unable to resolve his complaint with Secure Trust, Mr I brought his complaint to our service. Our Investigator looked into the complaint. He thought the outstanding faults were due to wear and tear of serviceable components, so he didn't think the car was of unsatisfactory quality when it was supplied.

Mr I disagreed, he said there had been further issues with the car, relating to the vanos unit being unplugged and a damaged boost pipe. Mr I believes the dealership tampered with the car and caused this damage. He wanted us to investigate the dealership's actions. The investigator explained that he couldn't look at the dealership's actions and as these were recent issues, he didn't think they were present at the point of supply, so didn't think Secure Trust were responsible for this.

Mr I disagreed. The complaint has been passed to me for a final decision. I let Secure Trust know that I thought that it could've done more to assist Mr I when the dealership wasn't

responding. I said it should pay £150 compensation to reflect this, Secure Trust didn't respond.

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 read the whole file, and seen the more recent information Mr I has provided, 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. And our rules allow me to do this, this reflects our informal, free service as an alternative to the courts.

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. Mr I is unhappy with the dealership's handling of this matter, but I think it would assist if I clarify that I'm unable to consider the actions of the dealership, I can only look at what Secure Trust did and whether it needs to take any further action to resolve Mr I's complaint.

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

car's quality

The Consumer Rights Act 2015 (CRA) says, amongst other things, that the car should've been of a satisfactory quality when it was supplied to Mr I. And if it wasn't, as the supplier of goods, Secure Trust is responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history and its durability.

The CRA also says that goods must conform to contract within the first six months. So, where a fault is identified within the first six months, it's assumed that the fault was present when the car was supplied, unless Secure Trust can show otherwise. So, if I thought the car was faulty when Mr I took possession of it, and this made it not of a satisfactory quality, it'd be fair and reasonable to ask Secure Trust to put this right.

Mr I started experiencing issues within five-months of collecting the car. Cars are complicated machines and there are lots of things that can cause one to go wrong within five months of supply. When Mr I took possession of the car, it was 9 years old and had just over 80,000 miles on the clock, and the cash price of the car, reflected this. And I think a reasonable person would expect an older car with high mileage to have suffered quite a bit of wear and tear and to consider that there is a greater risk that a number of components could be reaching the end of their serviceable life, than with a newer, less road worn car.

So just because faults occur shortly after supply doesn't mean I can assume it was present at the point of supply. Also, it's not enough simply for a fault to be present. The car would need to be of unsatisfactory quality because of the fault too, and not just due to normal wear and tear.

As the faults here were reported within six months, it's assumed the faults were present when the car was supplied and Secure Trust is responsible, unless it can prove otherwise.

The independent engineer confirmed the issues highlighted in the health check, with exception to the audio system and air conditioning, which he found to be both operable and the broken headlight, which had been repaired. The engineer found the engine oil level was critically low and one litre of oil had to be added but didn't find any oil leaks. After test driving the car, the engineer reported no issues with performance or acceleration. He noted the brake pads still had reasonable lifespan remaining. The engineer reported the front nearside spring was broken and the offside spring was corroded but thought this was due to normal wear and tear. In respect of the turbocharger actuator, he noted a slight rattle could be produced due to some free play of the rod, again he thought this was due to normal wear and tear and didn't think it required complete replacement as outlined in the health check.

The independent engineer explained that main dealer health checks focus on bringing a car to a high standard of condition, in respect of the components and require a high standard of repairs, using main parts, which are more expensive than using more economical parts. In conclusion the engineer said the issues were a result of usual wear and tear, and there were no unusually high levels of deterioration. He concluded that the car would have been of satisfactory quality at the point of supply.

Based on the independent engineers' findings Secure Trust said it wasn't responsible for any outstanding repairs.

Mr I disputes the independent engineer's findings. He says that we should rely on the vehicle health check and the health check video provided. However, I can see that the independent engineer did consider the health check report in detail and explained that a vehicle health assessment is carried out with the view to bring the car's components to a high standard. But Mr I didn't buy a new car, where I think it would be fair to expect the components to be of a high standard, he purchased a nine-year-old car, with over 80,000 miles on the clock, so I think it's reasonable to expect that it would require on-going maintenance and some components would need replacement, due to wear and tear.

Whilst I appreciate Mr I's strength of feeling here, the independent engineer is an expert and is independent of both Secure Trust and Mr I. And I've not seen any comments in the health check report or video to suggest any of the parts have worn prematurely or that the wear is related to a manufacturing defect. And in the absence of this I'm satisfied that it is reasonable to rely on the engineers' conclusions – that the faults identified relate to ongoing maintenance and serviceable components which require replacement, due to normal wear and tear.

In respect of the more recent issues with the vanos unit and boost pipe. I haven't seen anything to suggest these issues were present at the point of sale, so can't find Secure Trust responsible for these problems. He has also noted that the dealership was verbally abusive towards him over the phone. I appreciate Mr I feels these recent issues are a result of the dealership tampering with the car, and that he also found the dealership to be rude, but I'm unable to look into its actions.

In conclusion, I don't think the outstanding faults mean the car was of unsatisfactory quality when it was supplied to Mr I. And whilst I sympathise with Mr I's situation, I don't have any grounds to direct Secure Trust to cover the cost of repairing the car or allow him to now reject it.

customer services

Mr I says Secure Trust made a number of statements during telephone calls which led him to believe it would allow him to reject the car and also told him it would reimburse him for taxi costs, whilst he didn't have use of the car.

Having listened to the calls, I think Secure Trust were clear that it was awaiting the findings from the report before it could make a decision. And I think it was clear that it couldn't guarantee taxi costs would be refunded, as it was awaiting the independent report. So, I don't uphold this element of the complaint.

Mr I is unhappy with the way Secure Trust handled his complaint; he doesn't think it did enough to assist him when the dealership was being unhelpful. Having looked at what happened, I agree that Secure Trust could have done more. When it was clear that the dealership wasn't responding I think it could have arranged for an independent inspection to have happened sooner. Because it didn't, I can see that Mr I had to make numerous calls to it to find out what was happening, to reflect this I think Secure Trust should pay Mr I £150 compensation.

My final decision

My final decision is I partly uphold this complaint and direct Secure Trust Bank Plc to pay Mr I £150 compensation to reflect the frustration caused by failing to arrange an independent inspection to happen sooner.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 10 April 2023.

Karen Dennis
Ombudsman