

The complaint

Miss M complains that a car acquired with finance from MI Vehicle Finance Limited wasn't of satisfactory quality.

What happened

In June 2022 Miss M was supplied with a car and entered into a hire purchase agreement with MI.

Miss M experienced an issue with the spoiler and contacted the dealership in July 2022 to have it looked at. Whilst inspecting the car in August 2022, the dealership discovered that there was a safety recall for the driver and passenger airbags.

The dealership told Miss M that the spoiler repairs and the airbag replacement could be done at no cost to her. Miss M agreed to have the repairs, but these couldn't be done until a later date.

In September 2022 the car was returned to the dealership for the repairs to be done. The dealership told Miss M that there was a delay with parts, so she decided to collect the car before the repairs had been completed.

Miss M continued to use the car until November 2022. She then decided to trade it in but found that she couldn't because of the safety recall.

Miss M contacted MI and asked to reject the car. In its final response, MI said it hadn't been aware of the safety recall at the point of supply. It also said that Miss M had continued to use the car despite being aware of the safety recall. MI said it would arrange for repairs to be carried out at no cost to Miss M as a resolution.

In February 2023 the car went into a garage for the repairs to be completed. These included the spoiler repair, the airbag replacement, a software update and a MOT.

When the car was returned to Miss M, she discovered that a warning light was illuminated for the battery and that the driver's door didn't shut properly.

Miss M brought her complaint to this service. She wants to reject the car.

Our investigator partially upheld the complaint. They said that under the relevant legislation, the appropriate remedy was repair, and that they were satisfied that successful repairs had been completed to fix the spoiler and the airbags.

The investigator said that Miss M should be compensated for loss of use for the time her car was being repaired, and that she should receive compensation for the distress and inconvenience caused to her as a result of the issues with the car.

Miss M said the compensation was too low and asked for an ombudsman to review her complaint.

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 things like the age and mileage of the car and the price paid. The legislation says that the quality of the goods includes their general state and condition and other things like appearance and finish, freedom from minor defects, safety and durability.

The relevant legislation gives a consumer a short term right to reject faulty goods within 30 days. In this complaint, Miss M became aware of the fault with the spoiler within the first 30 days, but instead of rejecting the car at this point she agreed to have repairs done. The legislation says that if the short term right to reject can't be exercised, then the appropriate remedy is repair of the fault. The legislation says that the business has to be given one opportunity to repair the fault. If the repair isn't successful, the consumer can reject the car.

In this case, the repairs to the spoiler and the airbags have been successfully completed. I'm therefore satisfied that Miss M has been given the appropriate remedy under the relevant legislation and there's no grounds for rejection.

I've gone on to consider whether MI should do anything further here.

Loss of use

Miss M has said that whilst her car was in for repairs, she wasn't provided with a courtesy car. Given that one of the reasons for the car going in for repair was the safety recall, I think Miss M should've been provided with a courtesy car. Although Miss M initially drove the car after being told about the safety recall, she didn't drive the car from November 2022 until the repairs were completed in February 2023. She has acknowledged that a third party drove the car during this time. In the circumstances, I don't think it's fair to ask MI to refund any rental payments made from November 2022 to February 2023. However, I do think it's fair to ask MI to refund (pro rata) rental payments for the period the car was in the garage being repaired.

Additional repairs paid for by Miss M

Miss M has told this service that she had to pay for two tyres and a new battery. She's provided receipts for this, but MI says it needs more information before it can agree to refund these costs.

In order to uphold this aspect of Miss M's complaint and require MI to refund these costs, I would need to be satisfied that the repairs were in relation to faults which were present or developing at the point of supply which made the car of unsatisfactory quality. I haven't seen any evidence to suggest that this was the case so I'm unable – on the available evidence – to say that MI's response to this aspect of the complaint was unfair.

Compensation

I've thought about the impact that the issues with the car had on Miss M. The safety recall caused her worry, and she was also concerned about the legal implications of driving a car which was subject to a recall. Miss M has also said that she missed some medical appointments whilst the car was in for repair because she was left without transport.

It's clear that Miss M has suffered a significant degree of distress and inconvenience here and I think it's fair to ask MI to pay compensation of £150.

Legal issues

I'm not able to make any findings about whether the law was broken when the car was sold to Miss M subject to the safety recall. Only a court will be able to do this.

Putting things right

To put things right, MI Vehicle Finance Limited must:

Refund rentals pro rata for the period when the car was being repaired because Miss M wasn't provided with a courtesy car

Pay 8% simple interest per annum on the amount refunded calculated from the date of payment to the date of settlement

Pay £150 for distress and inconvenience

Remove any adverse information from Miss M's credit file in relation to the agreement

My final decision

My final decision is that I uphold the complaint. MI Vehicle Finance Limited must take the steps I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 19 September 2023.

Emma Davy
Ombudsman