

The complaint

Ms B complains about the quality of a car supplied to her under a hire purchase agreement with Startline Motor Finance Limited ("Startline").

What happened

In April 2022, Ms B took out a hire purchase agreement with Startline for a car. The car was just under three years old and had travelled around 36,168 miles. The cash price was £14,975. After paying a deposit, the terms of the finance agreement required Ms B to make 48 monthly payments of £295.77, followed by a final repayment of £7,037.

Ms B says on 3 October 2022 a dashboard warning light came on, advising her to stop driving. She says she took the car to a local garage, who advised her this could be caused by the knock sensor. She says the garage tried resetting the fault, and later replaced the knock sensor, but this didn't resolve the problem.

On 4 November 2022 Ms B complained to Startline about this ongoing problem with the car - and took it to a manufacturer's garage to find out what was wrong with it. The manufacturer's garage diagnosed repairs needed to the timing belt and engine, with an estimated cost of £3,881.70.

Startline arranged for an independent engineer to inspect the car on 3 January 2023, at which time it was recorded to have travelled 39,342 miles. The engineer reported:

"The vehicle would not start and had poor compression; the lack of compression confirms the repairer's diagnosis of a fractured timing belt."

"Given the minimal mileage covered since the date of sale (less than 3000 miles), we conclude that, at the very least, the timing belt was in an advanced state of deterioration at the point of purchase, therefore the sales agent should be responsible for the rectification costs [on] the grounds of durability".

On 31 January 2023 Startline issued their final response to Ms B, saying they'd partially upheld her complaint. They said they'd made arrangements for an independent inspection of the car and for the supplying dealer to repair the problem.

Startline said they wouldn't refund the monthly payments Ms B had made during the three months she hadn't been able to use the car. And they said they wouldn't reimburse any other costs she'd asked them to cover.

Dissatisfied with this response, Ms B brought her complaint to us. She said by the time Startline offered to make arrangements for the car to be repaired, the manufacturer had already agreed to cover this cost. But she thought Startline should reimburse the monthly payments, tax, and insurance she'd paid during the three months she hadn't been able to drive the car. She said she'd constantly had to chase them to try to get the problem resolved, and they hadn't given her a courtesy car to use in the meantime.

As Startline had already accepted responsibility for the repairs that were needed, our investigator focussed on whether they'd done enough to put things right for Ms B. She noted

Ms B hadn't been able to use the car from 4 November 2022 to 31 January 2023 because it was at the dealership. So, she thought Ms B should receive a refund of the payments she'd made during that period.

Our investigator said she hadn't seen any supporting evidence to show Ms B had paid for the diagnostic check or replacement of the knock sensor, so she didn't think it was fair for her to ask Startline to pay for that. And she didn't think it was unreasonable for Ms B to have to insure the car. But the investigator thought Startline should pay Ms B £150 for the distress and inconvenience she'd been caused by being supplied with a car that wasn't of satisfactory quality.

Startline disagreed with our investigator's proposals for how the complaint should be resolved. They said they felt a refund of monthly rentals was excessive, given that Ms B had raised concerns more than six months after the car was supplied to her.

Startline said they'd booked an independent inspection at no cost to Ms B, despite this being her responsibility under the Consumer Rights Act 2015. They highlighted the following parts of the engineer's report:

"The current symptoms could not have been present at the point of purchase as the vehicle couldn't have been driven in its current condition. A fractured timing belt in this model of vehicle is a common issue that is caused by in-service deterioration of the timing belt material."

"The sales agent would not have been aware of the impending problem at the time of sale as there would have been no symptoms present to alert the driver and the sales agent that there was an issue."

Startline said when they became aware of these issues, they'd offered the correct resolution. They said they believed £150 redress to be fair in this instance due to the support they'd offered Ms B and the fact that the car was now fully repaired. They asked for the case to be reviewed by an ombudsman.

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 agreement Ms B entered into was hire purchase, which means this service can consider complaints about it. Under this type of agreement, Startline is also the supplier of the car, so they're 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 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 goes on to explain that things like freedom from minor defects and durability can be aspects of the quality of goods.

I note that, soon after receiving the independent engineer's report, Startline made arrangements for the necessary repairs to be carried out by the supplying dealer. As they partially upheld Ms B's complaint about this, I don't think there's any dispute that the car wasn't of satisfactory quality when it was supplied to her due to the issue with the timing belt.

I agree - I don't consider the car to have been reasonably durable. I say this because I've seen evidence from the manufacturer's garage confirming it went to them on 4 November 2022 and needed significant repairs to the engine. And I'm satisfied that Ms B had only had

around six months' and 3,000 miles' use of the car by this time. I think she was entitled to expect it to last longer than that without the need for major repair work.

Ms B has told us that, by the time she received Startline's offer to return the car to the supplying dealer for repair, the manufacturer had agreed to cover the cost of this work being carried out at their own garage. So, I don't need to consider that cost.

I've moved on to consider whether Startline needed to do anything more to put things right for Ms B. Supplying a car that isn't of satisfactory quality is a breach of contract. So, I'd generally expect Startline to cover any reasonably foreseeable losses she incurred as a result.

Ms B says her local garage carried out diagnostic work and replaced the knock sensor. She's provided copies of their estimates dated 31 October 2022, suggesting this would cost a total of £234. But as I haven't seen anything to confirm whether she paid this amount, I'm not persuaded that I should direct Startline to reimburse her for it.

Startline say that, as Ms B had the car for more than six months before complaining about the issue with the timing belt, the onus was on her to provide evidence that this problem was already present or developing when the car was supplied to her. They feel they went above and beyond what was expected of them by arranging the independent inspection.

I'm satisfied that the cost of obtaining an independent engineer's report was incurred as a direct result of the car being of unsatisfactory quality. I'm pleased to see Startline arranged this at no cost to Ms B in this case. Because if Ms B had paid for the report, I'd direct Startline to reimburse her for that, plus interest.

I don't consider the matter of who arranged and paid for the report to be relevant to my consideration of any other losses Ms B may have suffered as a result of being supplied with a car that wasn't of satisfactory quality.

Ms B says she wasn't able to use the car between 4 November 2022 and 31 January 2023 because it was at the manufacturer's garage for repairs throughout this period. She's provided a copy of an email from them, confirming this. I've also reviewed the independent engineer's report. This confirms the car wouldn't start and the repairer's diagnosis of a fractured timing belt was considered to be correct.

Having reviewed this evidence, I think it's fair that Startline should refund the payments Ms B made for the period between 4 November 2022 and 31 January 2023, because she was unable to use the car at all during this period. I'm satisfied Ms B didn't delay things by accepting the manufacturer's offer to pay for repairs, because I've seen that Startline's offer to repair the car wasn't issued until 31 January 2023.

Ms B feels Startline should also reimburse her tax and insurance costs during the period in which the car was at the garage. I haven't seen any evidence showing whether Ms B could've chosen to make a statutory off-road notification (SORN), to reclaim the tax for this period. And although she wasn't able to drive the car, I do think there was a valuable benefit for Ms B in having it insured in case anything happened to it. So, I don't think it would be fair for me to direct Startline to reimburse these costs.

I'm satisfied Ms B was caused distress and inconvenience because she was supplied with a car that wasn't of satisfactory quality. She's told us she struggled financially because she had to keep paying for a car that she wasn't able to use for three months. She says she was constantly chasing Startline during this period to try to get the situation resolved, which

caused her a great deal of stress. I think Startline should pay Ms B £150 compensation for this.

My final decision

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

- Refund the monthly payments Ms B made for the period between 4 November 2022 and 31 January 2023,
- Add interest to each of the refunded payments, calculated from the date of payment until the date of settlement at 8% simple per year,
- Pay Ms B £150 for the distress and inconvenience she's been caused.

If Startline consider tax should be deducted from the interest element of the award, they should tell Ms B how much they've taken off. They should also give Ms B a tax deduction certificate if she asks for one, so she can reclaim the tax if she's eligible.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 29 September 2023.

Corinne Brown
Ombudsman