

The complaint

Mrs B complains that a car acquired with finance from Startline Motor Finance Limited (SMF) wasn't of satisfactory quality.

What happened

In October 2022 Mrs B was supplied with a car and entered into a hire purchase agreement with SMF.

After around two weeks of getting the car, Mrs B heard a ticking noise when the heating was on and there was a smell of oil coming from the engine. Mrs B took the car to a local garage who advised her to return it to the supplying dealer.

Mrs B contacted the broker, who arranged for the supplying dealership to inspect the car and carry out repairs. A diagnostic report dated November 2022 found several faults with the car.

The supplying dealer didn't complete repairs, so Mrs B raised a complaint with SMF in January 2023.

In its final response, SMF said that the broker had confirmed that the supplying dealer had agreed to complete the repairs on the car.

No repairs were carried out, so Mrs B complained to SMF again and brought her complaint to this service.

SMF said that because the supplying dealer had agreed to carry out repairs but had then failed to do so, it was supporting a rejection of the car. Following this, the broker contacted SMF and said that the supplying dealer hadn't heard from Mrs B since the car was acquired. The supplying dealer asked if Mrs B would contact them so that the issues with the car could be discussed and the car booked in for repairs. Mrs B said she would prefer to take the car to a third party garage for repairs. SMF advised Mrs B that there was no obligation on the supplying dealer to authorise third party repairs.

Since Mrs B brought her complaint to this service, the car remains unrepaired. Mrs B wants to reject the car.

Our investigator upheld the complaint. He said that although SMF had explained to Mrs B that the supplying dealer could carry out the repairs in April 2023, this was over 5 months after the issues had been found and 3 months since the issues had been reported to SMF. The investigator said that given the delays Mrs B had already experienced, it was fair for Mrs B to reject the car.

SMF responded and said it had liaised with the broker and the supplying dealer and it wanted to offer repairs as an alternative solution. It said it would provide a courtesy car for the duration of the repairs and reimburse Mrs B's monthly rentals.

The investigator put SMF's offer to Mrs B. But Mrs B said she wasn't happy to accept repairs. She said she'd been without use of the car for over 6 months and felt that SMF

should've resolved things sooner.

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 legislation says that the quality of goods includes their general state and condition, as well as things like fitness for purpose, appearance and finish, freedom from minor defects, safety and durability.

The car supplied to Mrs B was around 8 years old and had covered around 90,000 miles. So it's reasonable to expect that the car would already have some wear and tear and that it would require repairs and maintenance sooner than a brand new car.

Under the Consumer Rights Act 2015, where a fault occurs within the first 6 months of the point of supply, it's assumed that the fault was present or developing at the point of supply and it's generally up to the business to put things right. The business is allowed one opportunity to repair the fault. If the repair isn't successful, the consumer can reject the car.

I've reviewed the available evidence about the issues which Mrs B experienced with the car. Based on what I've seen, I'm satisfied that there are faults with the car. I say this because the diagnostic report dated November 2022 identifies several faults with the car.

I've gone on to consider whether the car was of satisfactory quality when it was supplied. The faults were diagnosed around a month after Mrs B got the car. So – under the relevant legislation - it's assumed that the faults were present or developing at the point of supply. The faults diagnosed are significant faults and based on what I've seen, I'm satisfied that the car wasn't of satisfactory quality at the point of supply.

Under the relevant legislation, the business is allowed one opportunity to repair the faults. The faults haven't yet been repaired, despite the supplying dealer having said that it would carry out repairs. And although the supplying dealer has offered to repair the faults more recently as an alternative resolution to that proposed by the investigator, I think, given the length of time that has now passed that it's fair to say that the business has had more than a reasonable opportunity to repair the faults. Because of the length of time that has passed with Mrs B being unable to use the car because of the supplying dealer's failure to carry out repairs, I think it's fair that Mrs B is allowed to reject the car.

Putting things right

Mrs B hasn't been able to use the car since January 2023 because of the faults. I don't think it's fair that Mrs B should have to make monthly repayments for a car she's been unable to use. So I'm asking SMF to refund all monthly payments made by Mrs B since 1 January 2023.

It's clear that the problems with the car have had a significant impact on Mrs B. Because she's been unable to use the car, she's had to rely on friends and family for lifts and had had to pay for public transport that she otherwise wouldn't have had to use. This has caused Mrs B distress and inconvenience in getting her children to school and herself to work. Having considered the impact that being supplied with a car which wasn't of satisfactory quality has had on Mrs B, I think it's fair to ask SMF to pay compensation.

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 Mrs B

Refund the deposit/part exchange contribution of £700

Refund all monthly payments from 1 January 2023 to the date of settlement

Pay 8% simple interest per year on all refunded amounts from the date of payment to the date of settlement

Pay £200 compensation for distress and inconvenience

Remove any adverse information from Mrs B's credit file in relation to the agreement

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

Emma Davy
Ombudsman