

The complaint

Miss T complains that a car acquired under a hire purchase agreement with Startline Motor Finance Limited wasn't of satisfactory quality.

What happened

In May 2022, Miss T acquired a used car from Startline under a hire purchase agreement. The car was sourced by a credit broker, who I'll refer to as Z, and supplied to Miss T by a dealership. The car was approximately nine years old and had covered approximately 93,000 miles when the agreement started. The agreement was for 40 months, and the cash price of the car was £5,965.

Within a couple of months of collecting the car, Miss T noticed some faults with it including issues with a faulty turbo, some broken front coil springs, the engine management light (EML) coming on and the diesel particulate filter (DPF) needing attention. Miss T has said she tried to speak to dealership about the faults on several occasions, but each time she was promised a call back that never happened. As Miss T needed to use the car, she arranged for the DPF to be cleaned at a local garage. The garage also completed a diagnostics test on the car at the same time, and several fault codes were identified. Miss T had covered around 870 miles in the car at this point.

Following this, some of the faults remained and were going to cost Miss T a lot to repair. Unhappy with the faults with the car, she complained to Startline in December 2022. She felt the car wasn't of satisfactory quality at the time it was supplied to her in May 2022. Startline responded to Miss T and explained that, as she had been in possession of the car for longer than six months, it was up to her to prove the faults with the car had been present or developing at the point it was supplied to her.

A month or so later, Miss T provided Startline with an independent report she'd paid for. Miss T had covered approximately 2,600 miles in the car at the time the independent inspection took place. The inspection report confirmed the same diagnostic fault codes had been identified during the test, as had been identified by the original diagnostic test in July 2022. The independent report concluded that it considered that faults identified were present or developing at the point the car was supplied to Miss T and were the supplier's responsibility. Miss T had stopped using the car at this time, because of the faults with it.

Startline have said they sent the report to Z, who in turn, it seems, passed it onto the dealership. They got in touch with Miss T to ask her to arrange transportation of the car back to them, so they could have the opportunity to repair it. Miss T wasn't happy with this and felt her rights under the Consumer Rights Act 2015 had been impacted – she asked to reject the car. Startline didn't agree to that.

Miss T brought her complaint to our service. Our investigator upheld it. He said he was satisfied the car wasn't of satisfactory quality when it was supplied to Miss T. But he said he thought the dealership should have the opportunity to repair the car. He asked Startline to:

- Arrange recovery of the car and cover the cost of repairs. He said these should be carried out within a reasonable timeframe.
- Refund Miss T £699.40 for additional expenses incurred because of the faults with the car. Miss T had needed to take taxi journeys to enable her to continue to work and had paid £240 for the independent inspection to take place.
- Pay Miss T 8% simple interest on the refunded amounts from the date they were paid until the date Startline settled.
- Remove any adverse information from Miss T's credit file in relation to this agreement.

Miss T didn't accept. She said that, ideally, she still felt that rejection of the car was the most appropriate thing to happen. But if that wasn't to happen, she felt she should receive more money back. She said she felt she should also receive four months' repayments back to reflect the time the car hadn't been used, and repayments had continued to be made. Our investigator didn't feel this would be reasonable.

As Miss T didn't agree, it was passed to me to decide. I issued a provisional decision on 5 July 2023. It said:

'I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.'

As the hire purchase agreement entered by Miss T is a regulated consumer credit agreement this service is able to consider complaints relating to it. Startline are also the supplier of the goods under this type of agreement and are responsible for a complaint about their quality.

The Consumer Rights Act 2015 (CRA) covers agreements like the one Miss T entered. Because Startline supplied the car under a hire purchase agreement, there's an implied term that it is of satisfactory quality at the point of supply. Cars are of satisfactory quality if they are of a standard that a reasonable person would find acceptable, taking into account factors such as – amongst other things – the age and mileage of the car and the price paid.

The CRA also says that the quality of goods includes their general state and condition, and other things like their fitness for purpose, appearance and finish, freedom from minor defects and safety can be aspects of the quality of the goods.

But on the other hand, satisfactory quality also covers durability. For cars, this means the components must last a reasonable amount of time. Of course, durability will depend on various factors. In Miss T's case, the car was used and had covered approximately 93,000 miles when she acquired it. So, I'd have different expectations of it compared to a brand-new car. Having said that, the car's condition should have met the standard a reasonable person would consider satisfactory, given its age, mileage and price.

In Miss T's case, I'm satisfied the car wasn't of satisfactory quality when it was supplied to her. I'll explain why.

As she brought her concerns to Startline's attention more than six months after she'd been supplied with the car, it was for Miss T to prove the faults with the car were present or developing at the point it was supplied. She has provided an independent report, which I think is the most persuasive piece of evidence here. The report confirmed the fault codes

detected in the first diagnostic test in July 2022 were still present in January 2023. It also confirmed that Miss T had only covered minimal mileage when the first test was completed, and it went on to conclude the faults would have been present or developing when the car was supplied. More importantly, it appears that Startline have accepted the car wasn't of satisfactory quality at the point it was acquired by Miss T – the only outstanding issue now seems to be how to remedy the current situation. Miss T would, ideally, like to reject the car. Initially it seemed that Startline accepted the car could be rejected – they have confirmed they would support that option in their submissions to our service. But Startline now feel the dealership should have the opportunity to repair the faults, as they haven't yet had the chance to do this.

Having considered everything that's been provided, I'm minded to decide that rejection of the car is the most appropriate and fairest way to resolve the complaint. The CRA explains that Miss T can ask Startline to reject the car after the initial 30 days of the agreement if any repairs haven't been completed in a reasonable time and without significant inconvenience to her. I'm not satisfied this requirement has been complied with, in this case. Miss T has provided evidence to suggest the dealership had agreed to undertake the repairs, provided Miss T paid for the car to be transported back to them. I accept that the dealership's response isn't the responsibility of Startline, but I do think they have had plenty of time in this case to step in and try to help Miss T find a reasonable solution. By failing to do so, I can't say they haven't caused Miss T significant inconvenience. The dealership is located over 50 miles away from Miss T and, as the car wasn't of satisfactory quality when it was supplied, I'm not satisfied she should be expected to cover the cost of getting the car back to them.

Also it's been six months since it was suggested that repairs could take place, yet the car is still with Miss T and isn't being used. As Startline are the supplier of the car under this agreement, I'm satisfied they must take responsibility and accept that Miss T has been waiting an unacceptable length of time to have any repairs completed and for this matter to be resolved. Because I'm satisfied Miss T has been waiting an unacceptable length of time for any repairs to happen, and because I don't think it's reasonable for her to cover the cost of transporting the car back for those repairs, it follows that I'm satisfied that she now has the right to reject the car.

Miss T has confirmed that she's made all her monthly repayments and has continued to make them since she stopped using the car in December 2022. As she hasn't had use of the car since then, I'm satisfied Startline should refund all the repayments she's made since December 2022. If she has missed any of those payments, Startline shouldn't ask her for them. She also paid for an independent report to confirm the car had faults present at the time it was supplied to her. I think she should be reimbursed for that cost.

As I'm asking Startline to return the monthly repayments made by Miss T, I don't think it's fair to also ask them to reimburse her for the costs she incurred when travelling by taxi. The total cost of the refund for the monthly repayments is higher than the taxi costs, and I think puts Miss T in the fairest position.

I'm also planning to ask Startline to pay Miss T £250 compensation for the distress and inconvenience she's received. Miss T has evidenced her ongoing health problems and has explained the impact not having a car has had on her and her ability to transport her children to and from school. It has clearly been a challenging few months for Miss T, not just from a financial point of view but also health-wise and I'm satisfied the problems she's faced with the car have added to those challenges.'

Startline haven't responded. Miss T has. She initially asked for more money to be returned to her, as she'd paid for a warranty when she acquired the car, and she'd continued to make her insurance payments for it. The investigator explained why it wasn't felt any more

repayments would be awarded, which Miss T has accepted, and she's accepted my provisional decision.

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.

Having done so, I haven't been provided with any additional evidence to lead me to change my provisional decision. Startline haven't provided anything to persuade me that the faults with the car weren't present or developing when it was supplied to Miss T.

I've explained in my provisional decision why I'm satisfied that rejection of the car is now the most appropriate way to resolve this complaint. And I've explained what Startline need to do to reimburse Miss T.

My final decision

For the reasons above, I'm upholding this complaint. Startline Motor Finance Limited must:

- Arrange to collect the car at no cost to Miss T.
- End the agreement with nothing more for Miss T to pay.
- Refund Miss T's deposit of £1,000.
- Refund all the monthly repayments Miss T has made to the agreement since she stopped using the car in December 2022. If she has missed any of those payments, Startline shouldn't request them.
- Pay 8% simple interest on those repayments, from the date payment was made until the date of settlement.*
- Refund £240 to Miss T for the cost of the independent inspection report.
- Pay Miss T £250 compensation for the inconvenience she's experienced by not having use of the car as expected.
- Remove any adverse information from Miss T's credit file in relation to this agreement.

*If Startline Motor Finance Limited consider that they're required by HM Revenue & Customs to deduct income tax from that interest, they should tell Miss T how much they've taken off. They should also give Miss T a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 17 August 2023.

Kevin Parmenter
Ombudsman