

The complaint

Mr S complains that a car he acquired with credit from Startline Motor Finance Limited wasn't of satisfactory quality.

What happened

Mr S entered into a credit agreement with Startline on 3 March 2022 to acquire a used car. The credit was granted under a hire purchase agreement. This meant Startline was the owner of the car and Mr S was, in essence, paying for the use of it. As owner, Startline was responsible for the quality of the car.

The cash price of the car was £8,395 and the total amount owed under the agreement including interest came to £10,437.56. Mr S paid a deposit of £1,537. The remainder was to be repaid in 35 monthly instalments of £246.96 with a final payment of £256.96. The vehicle was nine years old when it was supplied to Mr S and had covered 88,491 miles.

Delivery of the car to Mr S was delayed until on or after the 11 March. The dealer said that the car needed a replacement oil sensor. On 3 September a full service was carried out on the car, which had a tyre replaced. The mileage on the service report was 90,966. Mr S said the car broke down shortly after this and was recovered. The recovery service report recorded the mileage as 91,077 and listed faults relating to the camshaft timing and the coolant temperature sensor. The service advised Mr S to take the car to a garage as it had a rattle from the timing chain area.

Mr S contacted Startline on 6 September. He said the engine management light and the drivetrain message were illuminated and the car had issues relating to the camshafts, the right axle, the timing belt, coolant temperature sensor, water bottle and air conditioning. I understand the car was returned to the dealer on 7 September. Mr S said the dealer had attempted to return the car to him in late September but without letting him know what work it had carried out. Mr S wanted to reject the car at that point but accepted the return of the car in late December.

Startline accepted that there had been faults with the car which appeared within six months of it being supplied to Mr S. It said that the dealer had repaired these faults and so Mr S wasn't now entitled to reject the car. Startline sent Mr S a final response to his complaint on 12 January 2023.

Mr S let Startline know on 19 January 2023 that the car had broken down again. Startline didn't consider the report from the car's service in September or the recovery report as evidence of the issues Mr S was now experiencing. It commissioned an independent inspection in February 2023 but at that point the dealer hadn't provided any information about the repairs it carried out.

One of our investigators looked into Mr S's complaint and issued their findings on 20 March 2023. They didn't have enough information to conclude that the faults Mr S was experiencing were present or developing at the point of supply and so didn't consider he had the right to reject the car.

Startline commissioned another inspection in May 2023 after receiving further information from the dealer. Neither report led Startline to uphold Mr S's complaint and accept his rejection of the car.

Mr S asked for his complaint to come to an ombudsman for a decision. I issued a provisional decision on the 7 July 2023 explaining why I thought Mr S's complaint should be upheld and what I thought needed to happen to put things right for him. I allowed some time for both parties to comment on what I'd said or provide any new information they wished me to consider. I haven't had any further comment or information from Mr S or Startline.

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 considered everything again, and having no new information or comment to consider, I see no reason to depart from my provisional conclusions which were that the issues Mr S experienced in January 2023 were most likely related to repairs the dealer carried out when it had the car the previous autumn and that he should be allowed to reject the car. I appreciate this will be a disappointing outcome for Startline and I'll set out my reasons for upholding Mr S's complaint again in this final decision.

As I'd said in my provisional decision, the CRA 2015 is relevant in this case. This act implies a term into any contract to supply goods that those goods will be of satisfactory quality. Satisfactory means what a reasonable person would expect, taking into account the description of the goods, the price and any other relevant circumstances. The quality of the goods includes their general state and condition and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability.

The CRA gives customers solutions if they find themselves with faulty goods that aren't of satisfactory quality. They can reject the goods if the fault happens within 30 days, or have the goods repaired or replaced. Outside of this period the supplier has the chance to repair the goods before anything else happens. The supplier must either repair or replace the goods within a reasonable time and without significant inconvenience to the customer (Section 23). If the repairs fail to solve the problem then a consumer might be entitled to other solutions such as a price reduction or a final right to reject the goods.

Startline has accepted that there were faults with the car which manifested within six months of supply. It seems to me that it also accepted liability for these as the dealer brought the car in for repairs in September. By then Mr S had driven the car just over 2,500 miles.

The main questions I've considered are whether or not the faults Mr S experienced with the car in January 2023 when the car broke down were present or developing when it was supplied to him. And whether or not these faults might be as a result of repairs carried out on the car in 2022 which hadn't been successful.

The independent report dated 24 February 2023 recorded the mileage as 91,687 and confirmed several faults: there was no coolant in the expansion bottle (Mr S said he'd topped it up several times); the oil filler cap showed signs of water contamination; white smoke was coming from the exhaust; the heater was blowing cold on the driver's side and hot on the passenger side, and there was a warning displayed relating to the drive train which put the vehicle into limp mode. The battery charge and fuel pressure were low but the engine started and was left running for a time.

The inspector found that the car was unroadworthy and suspected that the main issue was with the head gasket. He concluded that it wasn't possible to say the faults were present at the point of supply although he also concluded that they may have been developing at that point depending on the mileage since then. The inspector noted that he didn't have the service report (from March 2022) or the recovery report and Mr S was unable to tell him what work had been carried out on the car.

The inspector concluded that he was unable to comment on whether the current issues would be deemed to be failed repairs under the CRA 2015. However, he also concluded that if the timing chain and camshafts had previously been repaired, then the current issues would be considered as failed repairs. After this inspection had been carried out, Startline obtained invoices issued to the dealer for parts for the car and work carried out in 2022 which I've summarised in the below table.

Date	Parts/work	Total cost
February	Refinishing work	£300
4 March	Brake pad, disc and wear lead	£111
4 March	MOT, Rear disc and pads	£78
11 March	B11 and B13 hoses parts and fitting	£224
20 September	Coolant sensor	£12
23 September	Temperature sensor coolant bottle	£100
19 October	Bosch injection valve and ignition coil, spark plug, timing chain (full vvt kit), oil filter and engine oil	£572
8 November	Bare engine	£1,635

Startline also provided a list of receipts showing money paid by the dealer to part suppliers and vehicle repair shops. This shows £915 for seven invoices in March 2022, £394 for four in September and £572 for two in November. The receipt totals don't match up with the invoices. It is possible that the dealer bought some of the parts intending to carry out repairs but didn't do so. However, I think it's more likely that the information provided by the dealer is incomplete.

Startline said this independent inspection concluded that it had no liability for the current vehicle issues. However, Startline offered Mr S another independent inspection after the repair information had been received from the dealer. It said this was to determine if there had been failed repairs.

As mentioned, the February report concluded that if the timing chain and camshafts had previously been repaired, then the current issues (relating to the breakdown in January) would be considered as failed repairs. I've noted that the parts/repairs listed above refer to the coolant bottle (paid to a repair garage) and the timing chain (paid to a parts supplier). It seems unlikely to me that the dealer would have purchased parts and not fitted them. Even if this were the case, the dealer clearly decided that these repairs were required at that time and accepted liability for them. The recovery service report (at 91,077 miles) had listed faults relating to the camshaft timing and the coolant temperature sensor and noted a rattle from the timing chain area. I think Startline had the evidence it needed at this point to conclude that Mr S was entitled to reject the car under the CRA 2015 without commissioning a second inspection.

I've noted that the mileage is the same on the inspections carried out in February and May 2023 so Mr S didn't drive the car in the intervening time. The report from the second inspection confirmed that the car had severe issues. There were multiple fault codes within the majority of the systems likely to be due to the depleted battery and there were eleven

fault codes stored within the engine. The inspector topped up the coolant in an attempt to start the engine and carry out engine tests. The cooling system lost pressure and the inspector was unable to start the engine although noted that with the aid of a battery boost pack there was a good cranking speed.

The report concluded that further investigation under workshop conditions would be required to determine why the engine would not start. Too much time had passed to be able to say that the issues with the car, which needed more work to understand the cause, were present or developing at the point of sale. The report in February came to the same conclusion, with a significant qualifier – if any work had been carried out since the car was supplied to Mr S relating to the timing chain and camshafts then the current issues would be considered as failed repairs. The fact that four months later when the car had not been driven and the engine failed to start it was no longer possible to determine whether or not the faults had been there or developing 14 months prior does not erase this finding.

This second report found that the current issues were not due to failed repairs. It also noted that there was no evidence that the engine had been replaced and that “there were some discrepancies in whether some of the invoice parts have been fitted, however due to the time span this is not solid evidence”. My understanding of this finding is that the inspection didn’t consider that the engine had been replaced but didn’t know whether there were other parts which had been ordered but not repaired or replaced. As I noted above, I think it’s likely that the evidence we have from the dealer is incomplete but what isn’t in doubt is that the parts listed were ordered and paid for to repair issues that arose within six months of supply. The dealer and Startline have accepted liability for these faults and I agree that it’s likely these were present or developing when the car was supplied to Mr S.

Putting things right

My starting point is that Mr S should be allowed to reject the car. This should be returned to Startline at no cost to him and the agreement terminated. Startline should return all payments Mr S made under the agreement, including his deposit. However, I think it’s fair that Mr S pays something for his use of the car given he’d have incurred some costs to stay mobile otherwise.

Mr S had the car from mid-March 2022 until 7 September. It was returned to him sometime before the end of December and Mr S informed Startline on 19 January 2023 that it had broken down again. The car travelled 3,268 miles in about six months (in total). The monthly payments were £247 (rounded) but I don’t think this is a fair reflection of the use Mr S made of the car. It’s clear Mr S didn’t make as much use of the car as he could have and that his enjoyment of it was curtailed by the issues he experienced. I think a fair amount Mr S should pay is £150 for each month he had use of the car. This means Startline can only ask him to repay a total of £900.

In addition, Mr S has experienced distress and inconvenience by being supplied with a faulty car. There isn’t a specific calculation for awards to compensate for the emotional impact of errors. We have an approach which I’ve borne in mind alongside everything else when making this decision. As set out on our website, an award of over £300 and up to £750 might be fair where the impact of a mistake has caused considerable upset and worry and significant inconvenience that needed extra effort to sort out, typically over weeks or months. I think an award in this range would be appropriate here.

In summary, Startline should:

- End the agreement with nothing for Mr S to pay going forwards and collect the car at no further cost to him;

- Limit Mr S's liability to £900 being £150 a month for six months;
- Refund all payments Mr S made above this amount including his deposit;
- Add 8% simple interest per year* from the date these payments were made to the date of reimbursement;
- Remove any adverse information about this agreement from Mr S's credit file;
- Pay Mr S an amount of £400 to reflect the distress and inconvenience this matter has caused him.

*HM Revenue & Customs requires Startline to take off tax from this interest. Startline must give Mr S a certificate showing how much tax it's taken off if he asks for one.

My final decision

For the reasons I've set out above, I am upholding Mr S's complaint about Startline Motor Finance Limited and it now needs to take the steps I've outlined to put things right for him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 4 September 2023.

Michelle Boundy
Ombudsman