

The complaint

Mr W complains Specialist Motor Finance Limited (SMF) supplied him with a car that he believes wasn't of satisfactory quality.

What happened

In July 2022, Mr W entered into a hire purchase agreement for a used car. It was over 10 years old and had covered over 104,000 miles.

Around August 2022, Mr W said he experienced issues with the car and he brought it to a local garage for it to be looked at. He was told there were fault codes with the fuel pressure regulator valve and air flow performance. Two new fuel filters were replaced but the garage was unable to delete the fault codes. Mr W was advised to return the car to the dealership for further investigation.

The dealership found issues with the fuel injectors, the fuel pressure regulator valve and the fuel sensor and carried out the necessary repairs. They also found engine management lights came on during the road test but this was later resolved. However upon collection of the car, it went into limp mode on the same day and was returned back to the dealership. They carried out further repairs and it was returned to Mr W around October 2023.

In January 2023, Mr W said he experienced further issues with the car as the engine management light was coming on. He returned it to the same local garage that initially looked at the car. Fault codes were found related to the manifold and turbo charger system. They found a leak to the fuel system and replaced the vacuum pipe. They also commented the brake pads needed to be replaced and the tyres had low tread. Mr W complained to SMF.

SMF confirmed the fuel injectors were refurbished by the dealership. However they denied the fuel pressure regulator valve was repaired by them so they couldn't be held responsible for its failure. In regards to the brakes and tyres, they said these were wear and tear items and they can't be held liable for them.

Unhappy with their response, Mr W referred the complaint to our service. Our investigator recommended the complaint was upheld. Based on the faults with the fuel system, he said the car wasn't of satisfactory quality at supply. He was satisfied there was a repair by the dealership but he believed that had failed as there were further issues with the car – including the fuel vacuum pipe, manifold and turbo system.

He said Mr W should be allowed to reject the car and end the agreement. He outlined a number of other things SMF needed to do to put things right including reimbursing Mr W for the repairs, refunding some monthly payments, etc.

Mr W agreed with the investigator's opinion however SMF didn't respond. Therefore the complaint has been referred to me to decide.

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've decided to uphold Mr W's complaint. I will explain why.

Mr W acquired a car under a regulated credit agreement. SMF was the supplier of the goods under this type of agreement meaning they are responsible for a complaint about the supply and the quality of the car.

The Consumer Rights Act 2015 (CRA) is relevant to this complaint. It says that, under a contract to supply goods, there is an implied term that "the quality of the goods is satisfactory". To be considered "satisfactory", the goods would need to meet the standard that a reasonable person would consider satisfactory – taking into account any description of the goods, the price and all the other relevant circumstances. In a case involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage. The quality of goods includes other things like fitness for purpose, appearance, freedom from minor defects, safety and durability.

Mr W was supplied with a used car that was over ten years old and had travelled over 104,000 miles. For used cars, it's reasonable to expect parts may already have suffered notable wear and tear when compared to a new car or one that is less travelled.

Despite our service's requests, SMF hasn't been particularly forthcoming with documentary evidence to support their position. So I've relied on evidence currently on file which has largely been provided by Mr W.

I've seen the job cards from the local garage in August 2022 which confirms two new fuel filters were replaced. I've also read the messages between Mr W and the dealership when the car was returned to them. The dealership confirmed there was a fault with the fuel injections, the fuel regulator valve and fuel sensors which all needed to be repaired and/or replaced. Based on this evidence, it's clear there were faults with the car which all appear to relate to the fuel system.

I've already outlined the expectations of a used car and in this case the car had travelled a significant amount of miles at supply so it's to be expected some parts may need to be repaired or replaced sooner. But even having taking that into account, when considering the satisfactory quality of a car I must also consider durability. In this case, given how soon the faults developed after supply, I don't find the car was reasonably durable. Therefore I find the car wasn't of satisfactory quality at supply meaning there was a breach of contract.

Where this happens and it's outside the 30 days of supply (short time right to reject), I would expect repairs to be carried out at no cost to the consumer and that's what happened here. The dealership carried out a number of repairs over a period of several weeks in September and October 2022.

Despite these repairs, Mr W reported further faults with the car in January 2023. The local garage found fault codes related the manifold and turbo system which needed to be investigated further. They also replaced the fuel pipe as it was leaking.

SMF has questioned the findings of the local garage and commented the mechanic's expertise aren't listed on the job card. However I wouldn't expect to find this information on a routine job card. Equally, SMF hasn't provided any of their own documentary evidence for

me to consider. In the absence of any other contradictory evidence, I find it's reasonable for me to rely on the findings of the local garage.

I also note SMF's comments that there is no suggestion the fuel vacuum pipe was repaired or looked at by the dealership. However on balance, I find it's most likely the dealership's repair to the fuel pressure regulator has caused the leak as it appear it wasn't fitted correctly. On that basis, I consider this earlier repair failed to resolve the faults with the car and there are ongoing issues with it – that is the manifold and turbo system.

Where this happens, the CRA allows the consumer the option of the final right to reject the car which is what Mr W wants to do. He doesn't want any further repairs. Given what has happened so far, I can understand why. Therefore I find SMF should allow Mr W to reject the car and end the agreement.

To put things right, SMF should refund any deposit amount paid. Mr W has provided job cards and invoices for the amount he paid to the local garage for repairs. As these costs were incurred as a result of the car not being of satisfactory quality, I find SMF should reimburse him for such costs.

From my understanding, Mr W stopped using the car around January 2023 following the findings of the local garage. He said he lost confidence in the car and didn't feel safe driving it with his young family. Given the situation I can understand why he felt that way. He has told our service the car is currently declared SORN. So I believe it's fair SMF refund him the monthly instalments paid from January 2023 onwards as this is when he stopped using the car.

Based on the evidence I've seen, the car was with the dealership for quite some time while it was being repaired meaning Mr W didn't have use of it. For this, SMF should also refund the equivalent of one month instalments.

Lastly, I thought about the likely impact of this situation on Mr W including multiple trips to the garage and having to sort out alternative travel. In light of the situation, I also believe SMF should pay £250 compensation to Mr W for the trouble and upset caused.

My final decision

For the reasons set out above, I've decided to uphold Mr W's complaint.

To put things right, Specialist Motor Finance Limited must:

- End the agreement with nothing further for Mr W to pay;
- Collect the car at no cost to Mr W;
- Refund any deposit paid*;
- Reimburse Mr W for the cost of the repairs by the local garage -August 2022 and January 2023 (upon receipt of evidence)*;
- Refund the monthly instalments paid from January 2023 onwards*;
- Refund one month of monthly instalments to reflect the time Mr W was without the car*;
- Remove any adverse information about this agreement from Mr W's credit file;
- Pay £250 compensation to Mr W for the trouble and upset caused.

* Specialist Motor Finance Limited should also pay 8% simple interest per year on all the above refunds calculated from the date of payment up to the date of settlement.

*If Specialist Motor Finance Limited considers tax should be deducted from the interest part of my award it should provide Mr W with a certificate showing how much it has taken off, so he can reclaim that amount if he is entitled to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 20 November 2023.

Simona Reese
Ombudsman