

The complaint

Miss R complains about how Startline Motor Finance Limited (“Startline”) handled her attempt to reject a car under a hire purchase agreement.

What happened

Miss R acquired a used car using a hire purchase agreement with Startline in November 2022. The car was acquired from a third-party dealership. The cash price of the car was £6,800 and a deposit of £99 was paid. At the point of sale, the car was around eight years old and had travelled around 84,000 miles.

A few days later, Miss R said there were issues with the car. Miss R said she got in touch with the supplying dealership to request rejection of the car under the Consumer Rights Act 2015 (“CRA”).

Mrs R said she agreed to allow the car to be repaired. But, she said she was pressured to do this by the dealer, and found out this meant she couldn’t then reject the car.

Job sheets for the repair showed that some of the faults reported were white smoke coming out of the car’s exhaust and abnormal noises coming from underneath the car when driving, as well as it shaking excessively when starting up. The job sheet showed the car was taken on a road test after some nuts and bolts were tightened – and no noise was found afterwards. It also said the shaking when starting the car was normal and that they couldn’t see white smoke coming from the exhaust.

The car was returned to Miss R and a few days later, in December 2022, Miss R said a fault with the clutch occurred. Miss R said she expressed that she wanted to reject the car again. At this point, the car had travelled around 800 miles further since the point of sale.

Miss R said it was offered to exchange the car, but she said it wasn’t clearly explained to her that this would have meant a new agreement would have needed to be signed. The car was left at the supplying dealership.

Miss R complained to Startline. Miss R wanted to be reimbursed for expenses she had incurred as well as compensated for the distress and inconvenience caused.

Startline gave their final response to Miss R in February 2022. They said that they partially upheld her complaint. In summary, they said that they accepted rejection of the car, however, Miss R would need to visit the supplying dealership branch to return the car and sign required paperwork. Startline also said that the terms of agreement stated they have no liability for any indirect loss or damage Miss R suffered because the car couldn’t be used for any reason. And so, they didn’t feel they needed to pay any compensation to Miss R.

Startline then said they contacted Miss R later in February 2023 to explain that in order to reject the car and unwind the agreement, she would need to visit the dealership to return some documents and sign some paperwork. They said they explained to Miss R that she

may incur some fees if she didn't do this. And if Miss R didn't want to go ahead and reject the car, then she should arrange to collect it.

Miss R then referred her complaint to our service.

As Miss R hadn't returned to the dealership, Startline said they recovered the car in March 2023 as they considered it abandoned and later sold the car at auction for £2,600.

In May 2023, Startline sent Miss R a Notice Of Sums In Arrears ("NOSIA") letter which said there was a payment shortfall of £9,257.07 on her account. Miss R then said that Startline had reported a default in relation to the outstanding balance, which was later revised to £6,647.07.

Our service asked Miss R why she hadn't returned the necessary documents to process the unwind of the agreement. Among other things, Miss R explained that she didn't want to sign any further documents as she believed the dealer had been dishonest previously when arranging to exchange the car.

Our investigator issued her opinion and upheld the complaint. In summary, she said she was satisfied there was a fault with the clutch in December 2022 and believed this meant that the car wasn't of satisfactory quality at the point it was supplied.. Our investigator said that Startline needed to accept rejection of the car. So, she directed Startline to:

- End the agreement with nothing further to pay.
- Refund the deposit contribution paid.
- Refund all rentals from 15 December 2022 to the date of settlement.
- Pay a further £200 for distress and inconvenience
- Remove any adverse information from Miss R's credit file in relation to this agreement.
- Pay 8% simple yearly interest on all refunded amounts from the date payments were made until the date of settlement.

Startline didn't agree with the investigator's findings. In summary, they said they do not dispute the investigator's view that the car should be rejected. But they didn't agree that Miss R should receive £200 for distress and inconvenience. They believed, had Miss R provided the necessary documents, this matter could have been resolved amicably in a timely manner.

As Startline disagreed with the investigator's findings, the complaint has been passed 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'm upholding this complaint and I'll explain why below.

Miss R complains about a car, and the subsequent offer made in relation to it, supplied to her under a hire purchase agreement. Entering into consumer credit contracts such as this is a regulated activity, so I'm satisfied I can consider Miss R's complaint about Startline.

When considering what's fair and reasonable, I take into account relevant law and regulations. The CRA is relevant to this complaint. The CRA explains under a contract to

supply goods, the supplier – Startline here – has a responsibility to make sure goods are of satisfactory quality. Satisfactory quality is what a reasonable person would expect – taking into account any relevant factors.

I would consider relevant factors here, amongst others, to include the car's age, price, mileage and description. So, it's important to note here that the car Miss R acquired was used. I can see this car was over seven years old, cost £6,800.00 and had around 84,000 miles on the odometer when Miss R got it. So, I think a reasonable person would accept that it would not be in the same condition as a newer car and was likely to have some parts that are worn. But a reasonable person would still expect the car to be free from anything other than minor faults and would've expected trouble free motoring for a reasonable time.

I've noted Startline have agreed to the rejection of the car. But for completeness, I think it is still worth me commenting on whether the car was of satisfactory quality when it was supplied.

Job sheets have been provided which shows repairs were carried out to the car shortly after it was acquired to the underside of the car as well as to the rear wiper. There were also other aspects which were reported but the dealership who carried out the repairs didn't find any faults.

Shortly after the repairs were carried out, another issue arose with the car. Both Miss R and Startline's notes they have provided suggest the clutch failed on the car and it needed replacing. From what I have seen, I'm satisfied there was a fault with the clutch in December 2022.

I've gone on to think about whether this fault with the clutch was present at the point of sale.

The fault with the clutch occurred on 15 December 2022 – within one month of the car being acquired, and within around 800 miles of it being used.

I'm satisfied the fault with the clutch was more than likely present or developing at the point of sale. It follows that I don't think the car was of satisfactory quality at the point of supply.

So, what I now need to consider here is whether the offer Startline made to Miss R of accepting rejection of the car was fair and reasonable to put things right, or if it needs to do anything further.

I've firstly considered Miss R's rights under the CRA. The CRA explains a consumer has the "*short term right to reject*" if goods are of unsatisfactory quality and the consumer exercises this right within 30 days of the goods being transferred to their possession.

As above, I'm satisfied the goods were not of satisfactory quality. And Miss R has said she had attempted to reject the car on two occasions – both within 30 days. I'm satisfied Miss R had a short term right to reject the car, and likely exercised this right within the time limits set out in the CRA. It follows I'm satisfied Startline should have allowed her to reject the car, and I think it is fair and reasonable that Miss R should still be able to do this. And in any event, Startline has also accepted rejection of the car.

Startline said Miss R needed to visit the supplying dealership to complete required paperwork and to hand in some documentation. But at this point, I'm satisfied it was clear the relationship between both parties had broken down.

Miss R told our service she didn't trust the supplying dealership. Startline also suggested in their final response to Miss R that her behaviour had been inappropriate when she visited

the supplying dealership in person. So, I can see why Miss R might not have wanted to visit the dealership in person again, as it might have exacerbated the health condition she says she has.

I also note Miss R has said the car was left, with its keys, at the supplying dealership. So, I think it would have been reasonable for Startline to arrange for an alternative method of sorting the paperwork without visiting the dealer. For instance, I think it could've offered to send the documents needed to be signed in the post, and for Miss R to have returned the items needed in the post. But I can't see this option, or an alternative option was offered.

Instead, Startline relied on a term in the agreement to consider the car abandoned and started its process to recover it and terminate the agreement. In turn, arrears notices were communicated to Miss R and a default eventually applied to her credit file.

Considering everything here, I don't think the actions Startline to have taken were fair. I say this because, Miss R had left the keys with the supplying dealership. Both Startline and the supplying dealership also knew where the car was. And they both knew Miss R was in discussion with our service. So, I don't think the car should have been treated as abandoned. Furthermore, relevant regulations say repossession of goods, in summary, is a last resort. And as I've already said, I don't think all the options had been considered in receiving the paperwork needed to process the rejection.

The car hasn't been used by Miss R since December 2022 due to its fault as it was undriveable. So, I think it is fair Miss R's monthly repayments paid from this point onwards are reimbursed up to the date of settlement.

Miss R has provided screenshots of taxi journey's and costs she's incurred to travel to destinations as a result of not having use of the car. Miss R has asked for these costs to be reimbursed but I'm satisfied the reimbursements of monthly repayments made when the car wasn't used is enough in this instance.

I have taken on board Startline's comments as to why they don't think a payment for distress and inconvenience is warranted in this instance. But I also think it must have been frustrating for Miss R to deal with the issues the car had, and for it to occur so early into acquiring the car. And she has explained to our service the impact this has had in relying on taxi's to travel with her family. I think it would be fair for Startline to compensate Miss R for the distress and inconvenience this issue has caused her. I agree with our investigator that £200 is reasonable here.

My final decision

For the reasons I've explained, I uphold this complaint and instruct Startline Motor Finance Limited to put things right by doing the following:

- End the agreement with nothing further to pay.
- Reimburse Miss R the deposit paid of £99. *
- Reimburse all monthly repayments made towards the agreement from 15 December 2022 to the date of settlement. *
- Pay Miss R £200 to reflect the distress and inconvenience caused.
- Remove any negative information about this agreement from Miss R's credit file in relation to this complaint, if any.

* These amounts should have 8% simple yearly interest added from the time of payment to the time of reimbursement. If Startline considers that it's required by HM Revenue &

Customs to withhold income tax from the interest, it should tell Miss R how much it's taken off. It should also give Miss R a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue and Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 23 October 2023.

Ronesh Amin
Ombudsman