

The complaint

Mr B complains that a car acquired with finance from AutoMoney Limited trading as AutoMoney Motor Finance ("AMF") wasn't of satisfactory quality.

What happened

In June 2022 Mr B was supplied with a car and entered into a hire purchase agreement with AMF. The cash price of the car was £12,495. The agreement was for a term of 60 months with monthly payments of £307.16. At the point of supply the car was around 8 years old and had covered around 60,223 miles.

Very shortly after getting the car Mr B had a safety inspection carried out. This identified a fault with the clutch. On 22 June 2022 the supplying dealership carried out repairs to the clutch which included a concentric cylinder and clutch kit.

In January 2023 the clutch failed. Mr B raised a complaint with AMF about the quality of the car.

AMF didn't uphold the complaint. It said that because the fault had occurred more than six months after the point of supply and initial repair, it would require evidence that the current fault was present or developing at the point of supply. AMF acknowledged that there had been some delay in dealing with Mr B's complaint and offered compensation of £50.

Mr B wasn't happy with the response and brought his complaint to this service.

Our investigator upheld the complaint. They said they disagreed with AMF when it said that too much time had elapsed from when the repairs were initially carried out in June 2022 to when the clutch failed in January 2023, because the second set of repairs were carried out to the same component parts as the initial repairs. The investigator said this indicated an underlying fault with the clutch which meant that the car wasn't of satisfactory quality when it was supplied. The investigator said that AMF should refund the cost of the second set of repairs which Mr B had paid for.

AMF didn't agree. It said there appeared to have been two faults with the car. The first related to the cylinder, so the clutch kit was replaced. The second related to the flywheel. AMF said that a flywheel could fail prematurely due to bad driving habits such as riding the clutch, pulling loads which are too heavy for the car and placing the car in reverse or first gear when the engine was off. AMF said that over 6 months and 3,300 miles had elapsed between the two sets of repairs which was enough time to prematurely wear and flywheel due to bad driving habits. AMF said it had asked Mr B to provide an independent inspection report to state whether the issues with the clutch in January 2023 would've been present at the point of supply or were as a result of previous failed repairs. It said that without this information, and on the balance of probability, it believed the flywheel to have worn prematurely due to driving style.

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 condition, as well as things like fitness for purpose, appearance and finish, freedom from minor defects, safety and durability.

The car supplied to Mr B was around 8 years old and had covered around 60,223 miles. So it's reasonable to expect that the car would already have a degree of wear and tear and that it was likely to require repairs sooner than, say, a brand new car.

Under the Consumer Rights Act 2015, where a fault occurs with a car within the first six 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 has the right to reject the car.

Where a fault occurs outside of the first six months of the point of supply, the burden of proof is reversed and it's up to the consumer to show that the fault would've been present or developing at the point of supply.

I've reviewed the available evidence about the issues which Mr B experienced with the car. Based on what I've seen, I'm satisfied that the car had a fault. I say this because the supplying dealer carried out repairs to the concentric cylinder and clutch kit in June 2022. I can also see that Mr B had further repairs carried out to the clutch and flywheel in January 2023.

I've gone on to consider whether the car was of satisfactory quality when it was supplied.

The first fault occurred within the first 30 days of the point of supply. Mr B could've exercised his short term right to reject at this point, but he chose to have the fault with the clutch repaired by the supplying dealer. The relevant legislation assumes that any faults which occur in the first six months were present or developing at the point of supply unless the business can show otherwise. And in this case, given that the fault with the clutch had to be repaired only 8 days after inception of the agreement, I'm persuaded that the car wasn't of satisfactory quality when it was supplied.

The clutch failed again in January 2023, around six months after the repairs to the clutch had been carried out by the supplying dealer. AMF has said that it's up to Mr B to provide evidence to show that the fault with the clutch which occurred in January 2023 was present or developing at the point of supply. It has suggested that Mr B could've obtained an expert report commenting on this, and on whether the fault was the result of failed repairs.

I understand why AMF would ask for this type of evidence. However, given the particular circumstances of this case, I don't think further evidence is necessary. I say this because it's already clear from the available evidence that the same component part of the car which was repaired in June 2022 has required repair again in January 2023. This suggests to me that either there was an inherent underlying fault with the clutch, or that the first repairs weren't successful.

I don't think a reasonable person would expect the same component part of a car to fail just six months after it had been repaired. The car had only travelled 3,300 miles during this time, which isn't significant mileage at all.

AMF has said that the fault with the flywheel could've been caused by driver style. But there's no evidence to suggest that this is the case. Even if Mr B was riding the clutch or towing heavy loads (and there's no evidence to suggest that he was), I don't think it's likely that the clutch would've suffered such a degree of damage in just six months and 3,300 miles so as to require replacement again.

Taking everything into consideration, I'm persuaded that the car wasn't of satisfactory quality when it was supplied and that there was either an inherent fault with the clutch which wasn't remedied by the repairs, or the repairs were unsuccessful. In either analysis, the business needs to take steps to put things right.

Putting things right

Mr B has told this service that he's had the clutch repaired and that he's paid for this. He's provided an invoice showing the repairs at a cost of £1,712.40. Mr B has confirmed that the car is now driving as it should, so the repairs appear to have been successful. I think it's fair to ask AMF to refund the cost of these repairs.

Although there have been issues with the clutch, Mr B has been able to use the vehicle throughout. So, I won't be recommending that any monthly rentals are refunded.

My final decision

My final decision is that I uphold the complaint. AutoMoney Limited trading as AutoMoney Motor Finance must:

Refund Mr B the cost of repairs in the sum of £1,712.40

Pay 8% simple interest per annum on the amount refunded calculated from the date of payment to the date of settlement

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 12 February 2024.

Emma Davy
Ombudsman