

The complaint

Ms K complains about a car she acquired under a hire purchase agreement with Startline Motor Finance Limited.

What happened

In January 2023, Ms K entered into a regulated hire purchase agreement with Startline to acquire a used car. The car was six and a half years old, its mileage was 86,015 miles, and its cash price was £16,450. A few days later, it passed its MOT, with one advisory about its rear brake discs being slightly rusty.

In May 2023, the car broke down and had to be recovered from the roadside. The mileage then was 88,716, so it had been driven 2,701 miles since Ms K got it. One of the fuel injectors was replaced, but Ms K did not continue to drive the car after that. In June, the car was inspected by an independent expert, but this was inconclusive, because the expert was unable to drive the car due to it having too much oil in it.

A second inspection was carried out by a different firm in July 2023. This found that the engine had been damaged due to having been driven with a worn fuel injector (the one which had been replaced), and the engine would need to be replaced. The expert said that due to the time since Ms K acquired the car, and how many miles she had driven it since, the fault would not have been developing when she acquired it. Based on that evidence, Startline did not accept responsibility for the fault. (Startline has since recovered the car from the dealership, where Ms K had left it.)

Ms K brought this complaint to our service, but our investigator did not uphold it, because she accepted the findings of the second expert.

Ms K did not accept that opinion. She said that no warning lights had come on before the car broke down in May. She said that under the Consumer Rights Act 2015, if goods are found to be defective within six months of purchase, then she has the right to reject them. She said she would expect to find a few minor faults due to wear and tear on a used car, but would not expect the engine to fail within five months of getting the car, and to need £7,000 worth of repairs – nearly half the value of the car. She said the second firm was not really independent, because the dealer had arranged the inspection, which had been carried out on the dealership's premises; furthermore, the conclusions were merely opinion and not fact. She mentioned that in March 2023, she had had an issue with a leaking windscreen, which she had paid £150 to fix (with no receipt). She asked for an ombudsman to review this case.

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 do not uphold it. I will explain why.

I have seen no evidence about what was wrong with the windscreen, so I cannot comment

on whether Startline was liable for it or not. I will confine my findings to the subsequent issues.

Startline is not liable for everything that goes wrong with the car, only for things that were wrong with it on the date it was delivered to Ms K. Section 19(14) and (15) of the Consumer Rights Act say that if a problem is discovered within six months of that date, then the burden of proof is on Startline to show that the problem was not present on that date, but that is not conclusive. The relevant legislation reads as follows:

“(14) ... goods which do not conform to the contract at any time within the period of six months beginning with the day on which the goods were delivered to the consumer must be taken not to have conformed to it on that day.

(15) Subsection (14) does not apply if—

(a) it is established that the goods did conform to the contract on that day...”

I think that Startline established that with the report from the second expert. I’m afraid I do not accept that the expert was biased just because of who instructed him or where the inspection was carried out. His conclusion was:

“Taking into consideration time and mileage elapsed since inception, we do not consider the current concern would have been developing at that point.”

I think there is support for that conclusion in the fact that only a couple of weeks after Ms K got the car, it passed its MOT with no relevant advisories.

As I’ve said, the damage to the engine was found to have been the result of a worn fuel injector. The lifespan of a fuel injector is 60,000 to 100,000 miles, so it is entirely plausible that one could fail after 88,000 miles. On the balance of probabilities, I think that is what happened in this case. I therefore conclude that the fuel injector – and the car as a whole – was of satisfactory quality when it was delivered to Ms K, and that the fuel injector failed due to wear and tear. Startline is not liable for that.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Ms K to accept or reject my decision before 16 April 2024.

Richard Wood

Ombudsman