

The complaint

Mr C is unhappy that a car supplied to him under a hire purchase agreement with Startline Motor Finance Limited was of an unsatisfactory quality.

What happened

Startline. He paid a deposit of £1,200 and the agreement was for £13,045 over 58 months; with 57 monthly payments of £339.77 and a final payment of £349.77. At the time of supply, the car was around eight years old, and had done 98,355 miles.

Mr C started to have problems with the car shortly after it was supplied to him, and the supplying dealership repaired the fuel injectors. The car broke down on multiple occasions after this, and each time a further repair was completed. Mr C raised his complaint with Startline, and they arranged for the car to be inspected by an independent engineer.

In a report dated 28 March 2023, the engineer said, *"it was obvious that two [fuel] injectors have not been fitted / sealed correctly ... and hot gasses permitted to leak as a result [which] have burnt the outer areas of the injectors and cylinder head."*

The engineer went on to conclude that *"the evidence of long term incorrect sealing of the injectors has led us to conclude that the vehicle has undergone a poor repair previously; it is unclear when the repair was carried out, but [the evidence supplied by Mr C] does indicate this was pre-existing, prior to the date of purchase."*

As a result of this, Startline agreed to unwind the agreement and take back the car. They also said they would keep back ten payments for Mr C's usage of the car, that they'd refund him the remaining payments he'd made, and pay him an additional £100 for the distress and inconvenience he'd been caused.

Mr C wasn't happy with Startline's offer, and he brought his complaint to the Financial Ombudsman Service for investigation.

Our investigator said that Startline should refund Mr C the £1,200 deposit he paid, plus any payments he'd paid after September 2022 (when Mr C stopped using the car), along with statutory interest. He also said that Startline should reimburse Mr C the £2,455.19 costs he'd incurred trying to repair the car, and pay him a total of £200 compensation for the trouble and inconvenience he'd been caused.

I issued a provisional view on 11 October 2023, where I explained my intention to uphold the complaint. In that decision I said:

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mr C was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

The Consumer Rights Act 2015 ('CRA') says, amongst other things, that the car should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of goods, Startline are responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history and its durability. Durability means that the components of the car must last a reasonable amount of time.

The CRA also implies that goods must conform to contract within the first six months. So, where a fault is identified within the first six months, it's assumed the fault was present when the car was supplied, unless Startline can show otherwise. But, where a fault is identified after the first six months, the CRA implies that it's for Mr C to show it was present when the car was supplied.

So, if I thought the car was faulty when Mr C took possession of it, or that the car wasn't sufficiently durable, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask Startline to put this right.

In this instance, it's not disputed there was a problem with the fuel injectors, nor that this fault was present when the car was supplied to Mr C. As such, I'm satisfied that I don't need to consider the merits of this issue within my decision. Instead, I'll focus on what I think Startline should do to put things right.

The investigator said that Mr C had use of the car until September 2022, after which point it wasn't working as expected, or it wasn't on the road. So, he recommended that Startline refund all the payments made after September 2022.

Mr C had an engineer inspect the car in September 2022, November 2022, and February 2023. The report dated 28 February 2023 shows repairs had been carried out to the car, and that Mr C continued to use the car after these repairs. It wasn't until February 2023 that Mr C was told to stop using the car.

I've seen a paid invoice for £1,894.52, dated 7 November 2022. This is for an investigation into the fuel injector issue, as well as for a service, and an issue with the radio that Mr C acknowledges occurred after he'd been supplied with the car. From what I've seen, it doesn't seem to be disputed that only £340.01 of the costs relate to the fuel injector problem. The invoice also shows the car had done 105,785 miles.

I've also seen a paid invoice for £2,099.18, dated 2 December 2022, for the investigation and attempted repair of an issue with the fuel injectors. This invoice shows the car's mileage to be 106,608 miles.

Mr C has confirmed the car was in for repair between 27 September and 3 November 2022 (6 days), between 22 and 30 November 2022 (8 days), and between 2 February and 31 May 2023.

Finally, the independent engineer's report of 28 March 2023, referred to above, shows the car had done 108,293 miles at this point.

Based on what I've seen, Mr C did 7,430 miles between 21 January and 7 November 2022 – about 825 miles a month. In the roughly a month between 7 November and 2 December 2022 he did 823 miles. And between 2 December 2022 and 2 February 2023 (when the car went in for a diagnostic that resulted in him being told not to drive the car), Mr C did 1,685 miles – about 840 miles a month.

Based on this, I'm satisfied that Mr C continued to use the car, at the same rate he always had done, until it went in for a diagnostic and repair on 2 February 2023. As such I think he should only be refunded any payments he's made from February 2023 onwards.

However, Mr C has provided evidence of the costs he's incurred in having the fuel injector issue with the car inspected, and repairs attempted. Given that the car wasn't of a satisfactory quality when supplied, I think it's only fair that Startline reimburse these costs.

Finally, it's clear that Mr C has been inconvenienced by having to arrange for the car to be repaired, and by any repairs being unsuccessful, as well as being without a car for short periods while it was being repaired. So, I think Startline should compensate him for this. The investigator had recommended Startline pay him a total of £200, which is in line with what I would've directed had no recommendation been made. So, I see no compelling reason not to adopt this as part of my final decision.

Therefore, if they haven't already done so, I think that Startline should:

- *end the agreement with nothing more to pay;*
- *collect the car at no cost to Mr C;*
- *remove any adverse entries relating to this agreement from Mr C's credit file;*
- *refund the £1,200 deposit Mr C paid;*
- *refund any payments Mr C made from February 2023 onwards;*
- *reimburse Mr C with the £2,455.19 he paid in having the car inspected, and repairs attempted;*
- *apply 8% simple yearly interest on the refunds/reimbursements, calculated from the date Mr C made the payments to the date of the refund[†]; and*
- *pay Mr C a total of £200 to compensate him for the trouble and inconvenience caused by being supplied with a car that wasn't of a satisfactory quality.*

[†]HM Revenue & Customs requires Startline to take off tax from this interest. Startline must give Mr C a certificate showing how much tax they've taken off if he asks for one.

Responses

Startline didn't respond to my provisional view.

Mr C said he'd already received some compensation from Startline, but he thought it was unfair for them to withhold ten monthly payments and refund him a different amount to what he'd originally been quoted.

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.

As Startline haven't said anything to the contrary, I'm taking their lack of comments to mean they don't object to my provisional view.

I've noted Mr C's comments about the ten months payments being retained by Startline. However, as explained in my provisional view, Mr C continued to use the car until 2 February 2023. So, I think it's only fair that he pays for this usage. As such, I don't think he should be refunded any payments he'd made before this date.

I also appreciate that Startline may've told Mr C they were paying him one amount, and then paid him a different amount. While this shouldn't have happened, my provisional view lays out what I think is fair compensation for Startline to pay.

As such, the comments I've received don't change my view that Mr C should be allowed to reject the car. And, given this, I see no compelling reason why I shouldn't now adopt my provisional view as my final decision.

Putting things right

For the reasons already given, if they haven't already done so, Startline should:

- end the agreement with nothing more to pay;
- collect the car at no cost to Mr C;
- remove any adverse entries relating to this agreement from Mr C's credit file;
- refund the £1,200 deposit Mr C paid;
- refund any payments Mr C made from February 2023 onwards;
- reimburse Mr C with the £2,455.19 he paid in having the car inspected, and repairs attempted;
- apply 8% simple yearly interest on the refunds/reimbursements, calculated from the date Mr C made the payments to the date of the refund[†]; and
- pay Mr C a total of £200 to compensate him for the trouble and inconvenience caused by being supplied with a car that wasn't of a satisfactory quality.

[†]HM Revenue & Customs requires Startline to take off tax from this interest. Startline must give Mr C a certificate showing how much tax they've taken off if he asks for one.

If Startline have already paid Mr C some compensation, this should be deducted from the total compensation as detailed above, and the difference should be paid to Mr C.

My final decision

For the reasons explained, I uphold Mr C's complaint about Startline Motor Finance Limited. And they are to follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 27 November 2023.

Andrew Burford
Ombudsman