

## The complaint

Mrs B complains 247 Money Group Limited trading as 247Money (247 Money) supplied her with a car that she believes wasn't of satisfactory quality.

## What happened

The details of this case are well known to both parties so I won't repeat them again.

In November 2023, I issued a provisional decision outlining my intentions to uphold the complaint. I said the following:

*"Mrs B has raised a number of complaint points. I would like to reassure her that I've read and considered them but in this decision I won't address them all. No discourtesy is intended by this. Instead, I will focus on the issues I consider to be key to reach a fair outcome. Having done so, I intend to uphold Mrs B's complaint. I will explain why."*

*Mrs B acquired a car under a regulated credit agreement. 247 Money 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 at the time of supply, the car's history, safety, durability, etc.*

*In this case, Mrs B acquired a car that was around 11 years old and had travelled over 68,900 miles. As this was a used car with considerable mileage and age, it's reasonable to expect parts may already have suffered substantial wear and tear when compared to a new car or one that is less travelled.*

*Mrs B reported immediately upon collecting the car from the dealership, the engine management light was coming on.*

*I've carefully considered the evidence provided by both parties including the job cards and comments from the third party garages. Having done so, I find there was a fault with the exhaust camshaft and camshaft sensor. Given the engine management light came on the same day as Mrs B collected the car, it's evident the fault was present at supply. I don't believe a reasonable person would expect to experience such a fault immediately upon acquiring it. Therefore, I don't agree the car was of satisfactory quality when it was supplied to Mrs B meaning there was a breach of contract.*

*The CRA says a consumer has 30 days to reject a car that's of unsatisfactory quality (short term right to reject). I know this is a particular point Mrs B feels very strongly about.*

*I've reviewed an email she sent to the dealership on the day she acquired the car. She says:*

*"Regardless of whether the engine management light was on that morning, this fault was present when I collected the car. Please confirm if you are happy for me to take it to a local garage for investigation and repair (at your expense) or if you would like to collect it to carry out the investigation and repairs yourself? Bar this fault, I am happy with the vehicle and am not inclined to reject it at this point".*

*Based on this email, it's clear Mrs B didn't ask to reject the car but instead she wished for it to be repaired. From my understanding the dealership told her to take it to a local garage for repair. It was taken to a manufacturer approved garage however it's unclear what repairs (if any) were carried out. So Mrs B took it to another garage who I will refer to as T, they replaced the camshaft sensors. However despite the same, Mrs B reported the engine management lights were still coming on. So she got back in contact with the dealership.*

*According to Mrs B around this time (August 2022), she requested to reject the car to the dealership during a call. Unfortunately I don't have this call recording but I have seen emails between Mrs B and the dealership around that time. In the emails, she makes it clear if the fault isn't fixed she wants to reject the car. In one email, Mrs B sets out her proposed solutions as follows:*

*"1. Authorise and pay for the full repairs required to make this vehicle road worthy. The car is booked in for 12th September.*

*2. Collect the car and carry out the repairs themselves and supply me with a courtesy car while this is being done.*

*3. I reject the car for a full refund plus costs and compensation".*

*Based on these emails, I don't find Mrs B explicitly said she wanted to reject the car as she was open to accept repairs to fix the fault. On balance, I believe it's most likely she said the same during the call with the dealership. In light of the same, I can't say the dealership did anything wrong by saying they would arrange to repair the car. After all, that was one of the options she put to them. I can't agree that she was forced to accept the repairs as she alleges.*

*I can see the dealership carried out repairs in September 2022 – they replaced the exhaust camshaft and camshaft sensor. From my understanding, Mrs B was provided with a courtesy car during this time and the repairs were carried out at no cost to her which is in line of what I would expect to happen. I note Mrs B's comments about the time it took for these repairs to be carried out but I don't find the time was excessive.*

*Following the repair, Mrs B said the engine management lights were no longer coming on but she was still having issues with the car, such as it was losing power when driving uphill. Unhappy that the repairs, she asked the dealership to reject the car in October 2022. I consider this to be the first time where Mrs B explicitly said she wanted rejection.*

*Mrs B returned to T for them to look at the car in October 2022. In summary they said the following:*

- Fault code found – camshaft sensor. They previously replaced the camshaft sensors but the fault code wasn't clearing;*
- Camshaft previously had work e.g. camshaft wheels removed, new bolts fitted. The old cambelt is still on the car;*

- Road test shows the car has a distinct lack of power under load when driven uphill and on flat road;
- When in third gear, the power drops off and vehicle slows down which is dangerous;
- Revs stay high between gear changes.

Mrs B also took it to another local garage for further diagnosis in November 2022, who I will refer to as Q. In summary, they said:

- The camshaft belt hadn't been replaced, it was worn. It would've been reasonable for the dealership to have replaced this prior to Mrs B acquiring it. The manufacturer recommends it should be replaced every 72 months or 100,000 miles;
- Due to the above, the repair by the dealership in September 2022 was inadequate or poorly advised;
- There was an oil leak – from the front crankshaft oil seal which is leaking to the exhaust causing a smell inside the car. It is also contaminating the cam belt causing premature failure;
- During the road test, there was a significant noise from the nearside rear which appears to be a wheel bearing or possibly an out of shape tyre;
- When driving on a light throttle, there is a jerking feeling from the engine but further investigation would be needed.

Following the findings of T and Q, Mrs B complained to 247 Money. Given what had happened up to that point, they said they would arrange for an independent inspection to be carried out. I consider that was a fair course of action to determine whether there remained faults with the car.

The independent inspection was carried out in November 2022, I note by this point the car had travelled around 73,000 miles, meaning Mrs B had covered over 4,000 miles since it had been in her possession. Having read the report, in summary it said:

- They were aware repairs had been carried out but not aware what these were. If any repairs have been carried out, then it had been to a satisfactory standard;
- There was a slight leak from the underside of the engine suspected to be coming from the main crankshaft oil seal but that didn't detract from the car being driven;
- No fault codes found;
- A road test of 11 miles found no performance issues – it performed with enough torque and performance to climb the steep hill;
- Overall, the car was in satisfactory condition and there didn't appear to be any abnormal performance issues, noises or smoke.

I note Mrs B's comments about the independent inspection and how she disputes their findings. Given the report says the mechanic wasn't aware of what repairs were done, I can understand why she questions whether he can fairly say it was completed to a satisfactory quality and I'm inclined to agree with her. However I must stress, I'm not an expert in car mechanics nor is that the function of our service. So I must rely on the evidence provided by those with the relevant qualifications, knowledge and expertise.

It's clear there is conflicting information between T, Q and the independent inspection. Where evidence is conflicting, I reach my decision on the balance of probabilities. Based on my research, it appears to be good industry practice that if the exhaust camshaft is replaced and the cambelt is worn, that should be replaced also. Given the age of the car and the initial

*faults, I believe it would've been reasonable for the cambelt to have been replaced when the car was repaired by the dealership in September 2022 but that didn't happen.*

*Garages T and Q comment on the loss of power of the car and the jerking of the engine which are common signs of issues with the cambelt as that controls the moving parts of the car. While I accept the inspection found no such issue, two other independent parties identified it which may mean it's an intermittent problem.*

*As part of my investigation, I asked Mrs B to provide further evidence of this loss of power problem and she provided a video. Having watched it, it appears when driving in 3<sup>rd</sup> gear the power of the car declines and it struggles to maintain speed - poor acceleration. From my understanding this is a common symptom of a worn cambelt. On balance, I find it's most likely the car wasn't repaired to a satisfactory standard as the cambelt wasn't replaced. In my opinion that has led to further issues.*

*Where a car isn't of satisfactory quality, the dealership has one opportunity to repair and that has happened here. Mrs B has made it clear she has lost faith in the car and doesn't want any further repairs and I can understand why. I consider the earlier repair has failed and in line with the CRA, I find 247 Money should now allow her to reject the car.*

*This means the agreement should come to an end with nothing further for Mrs B to pay and they should collect the car at no cost to her. They should also refund any deposit paid.*

*Although I find the car wasn't of satisfactory quality, given the number of miles Mrs B has covered since acquiring the car it's clear she has made use of it. However I accept her testimony that she has only used it to commute to work but not for any other leisurely driving and travelling as she enjoys to do. As Mrs B has had use of the car, I won't be asking 247 Money to entirely refund the payments she's paid, it's fair she pays for her use. Instead I will ask them to refund 5% of the monthly payments paid to reflect the impaired use.*

*Mrs B has provided reports from garages T & Q which has determined faults were present, if she paid for these reports this should be refunded by 247 Money (upon receipt of evidence) as she incurred them as a result of having a faulty car. I won't be asking them to refund the cost of the tyre as this is a serviceable part of the car and she's covered considerable mileage.*

*Lastly, given the likely impact of this situation on Mrs B including multiple trips to the garage for repair and the extent of her communication with 247 Money, I find 247 Money should pay £300 compensation for the trouble and upset caused.*

### **Summary**

*Taking everything into account, I find the car wasn't of satisfactory quality due to the fault with the exhaust camshaft and camshaft sensor. Although repairs were carried out, I don't find these were to a satisfactory standard which has led to acceleration issues with the car. To resolve the complaint, 247 Money should allow Mrs B to reject the car and put things right as outlined above".*

### **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.*

Both 247 Money and Mrs B accepted the findings. Although she maintains had she been allowed to reject the car sooner, she wouldn't have travelled the amount of miles that she had.

I thank both parties for their response. While I appreciate Mrs B's comments, I don't find this materially changes the outcome.

On the basis I haven't been provided with any further information to change my decision I still consider my findings to be fair and reasonable in the circumstances. Therefore, my final decision is the same for the reasons as set out in my provisional decision.

### **My final decision**

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

To put things right, 247 Money Group Limited trading as 247Money must:

- End the agreement with nothing further for Mrs B to pay;
- Collect the car at no cost to Mrs B;
- Refund the deposit paid\*;
- Refund 5% of the monthly instalments paid to reflect impaired use\*;
- Reimburse Mrs B for the cost of the garage reports (upon evidence provided)\*;
- Remove any adverse information about this agreement from Mrs B's credit file;
- Pay £300 compensation to Mrs B for the trouble and upset caused.

\* 247 Money 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 247 Money considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mrs B how much it's taken off. It should also give Mrs B a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 2 January 2024.

Simona Reese  
**Ombudsman**