

## **The complaint**

Miss A complains that the car she acquired through a hire purchase agreement with Startline Motor Finance Limited (SMFL) wasn't fit for purpose. She wants to reject the car.

## **What happened**

Miss A entered into a hire purchase agreement with SMFL in August 2022 to acquire a used car. At the time of acquisition, the car was over three years old and had been driven over 44,000 miles.

Miss A doesn't think the car supplied was fit for purpose. She said that within two days of collecting the car she had to call out a recovery company as the car had broken down. The fault was identified as broken spark plugs and repairs undertaken. Miss A raised a complaint.

SMFL issued a final response dated 15 December 2022. It noted that Miss A had contacted it on 6 September 2022 about issues with the car, including faulty spark plugs, the car losing power and the engine management light (EML) coming on. While she initially said she wished to reject the car she then accepted for the car to be repaired. SMFL partially upheld Miss A's complaint as the car was supplied with inherent faults, but as the car had been repaired at no cost to Miss A it didn't accept her request to reject the car.

Following this, Miss A experienced further issues. In January 2023, Miss A had diagnostic tests carried out and this identified that repairs to the oxygen filter were needed. After the car was returned the EML came on again and the car was returned to the garage in March 2023 (there was a delay due to a courtesy car not being available). However following the return of the car the EML came on again and the car was returned to the garage in May 2023. At this point it was reported that a new engine was required.

An independent inspection was carried out on the car in September 2023. At this point the car had been driven 56,456 miles. The inspection identified a fault with the engine and several fault codes. It acknowledged the previous repairs but given the mileage driven it didn't think the issues with the car were present or developing at supply. After further discussions, the inspector said it was possible that the previous repairs hadn't been successful and that the condition was ongoing. Given the substantial work needed on the car within a short period of time the inspector said that the car might not be considered durable.

Our investigator upheld this complaint. He noted the repairs that had been undertaken and that the EML kept coming on which he thought suggested there to be an inherent defect that hadn't been resolved. Given this he didn't think the car supplied was of satisfactory quality. So, he thought Miss A should be allowed to reject the car meaning her agreement would be terminated with nothing further to pay and the car returned. He noted that Miss A had reasonable use of the car until May 2023, noting she had covered 11,000 miles. He thought SMFL should be able to retain a month's instalment for every 1,000 miles driven. He noted Miss A's comment about needing to pay for hire car costs and said these should be refunded subject to evidence being provided. He also thought Miss A should be refunded the additional costs she had incurred (inspection report and certain repairs) as well as be paid

£300 compensation. He also recommended that any adverse information be removed from Miss A's credit file.

SMFL didn't accept our investigator's view. It said that Miss A had been able to drive the car over 11,000 miles and had it not been fit for purpose as she had said, this wouldn't have been possible. It said the independent inspection report recorded that there wasn't evidence that the faults with the car were present or developing at supply. It didn't accept that the previous repairs had failed.

As a resolution hasn't been agreed, this case has been passed to me, an ombudsman to issue a decision.

### **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.

Miss A acquired a used car through a hire purchase agreement. Under the regulations, specifically the Consumer Rights Act 2015, SMFL can be held liable if the car supplied wasn't of satisfactory quality. When assessing satisfactory quality, it is reasonable to take into account factors such as the age, mileage and price of the car as well as whether the car supplied was sufficiently durable.

Miss A acquired a car that was three and a half years old and had been driven 44,281 miles. Given this it is reasonable to accept that the car would have suffered some wear and tear. It is also possible with used cars that issues can arise shortly after acquisition even if they weren't present or developing at supply. But that said, it is expected that the car supplied to Miss A would be sufficiently durable.

In this case, there have been faults identified at various points while Miss A has been in possession of the car and in May 2023, it was suggested a new engine was required. The independent inspection report carried out in September 2023, identified that the engine was misfiring and noted the loss of coolant as a concern that could indicate a leak in the cooling system. Based on the evidence provided I find it reasonable to say that the car has experienced faults and that faults remain ongoing.

While I accept the car has faults, for me to require SMFL to take further action in response to this complaint, I would need to be satisfied that the car wasn't of satisfactory quality at the point of supply.

I note the comment made in the independent inspection about the car having been driven over 11,000 miles. However, considering this alongside the other evidence provided in this complaint, I find there is evidence to suggest the car not being of satisfactory quality at acquisition. I say this because the independent inspection report notes the issue of the misfire and said that this issue would be alerted to the operator by a loss of power and abnormal running. It said the engine misfire can cause erosion damage in the locality of the temperature spike and can break sparkplug electrodes and porcelain around the plug as well as other issues. Miss A's car broke down a few days after she acquired it and at the time she reported a loss of power and the spark plugs were found to be broken. The EML also came on. While repairs were undertaken these didn't fully resolve the issue as the EML came on and further diagnostics showed further issues. This continued until May 2023 when the car was returned to the garage. As the inspection carried out in September then identified the underlying issue of the misfire and that the results of this were issues Miss A experienced within days of receiving the car, I find it more likely than not that there was a fault present or developing at the point of supply that wasn't fully resolved by the repairs.

Based on the above, I find, on balance, that the car supplied to Miss A wasn't of satisfactory quality and as repairs have been attempted and not resolved the issues, I find it fair that she is now allowed to reject the car.

When a car is rejected we would expect that the car would be returned at no cost to Miss A, her agreement ended with no further liability and any adverse information relating to the agreement removed from her credit file. If a deposit was paid this can also be expected to be refunded but in this case Miss A didn't pay a deposit towards the car and the amount received from the part exchange of a previous vehicle was used to repay the finance on that vehicle. Additional to the actions taken in response to the rejection of the car, I find that Miss A should be compensated for other costs she has incurred. Miss A had to pay for some repairs to the oxygen sensor and the inspection report. I find these costs should be refunded.

Our investigator noted the mileage that Miss A had driven and said that SMFL should be able to charge a month's instalment for each 1,000 miles driven. He also noted that hire car costs should be refunded if evidence of these was provided. In this case I find a fairer resolution is to accept that Miss A had fair use of the car until May 2023 at which point the car was returned to the garage. Therefore, I find she should remain liable for the repayments due to that point. However, after that time, I do not find that Miss A should be liable for the monthly repayments as she didn't have use of the car. Because I find that Miss A shouldn't be liable for the monthly instalments from May 2023, I do not find that SMFL is liable for any other transport costs from that time. I provided information about this change in my approach to the redress to the parties.

This issue has caused Miss A distress and inconvenience. She has had to return the car on several occasions and have repairs carried out. She has explained her family circumstances and the inconvenience not having a reliable car has caused. Because of this I agree with our investigator that she should be paid £300 compensation.

### **Putting things right**

Startline Motor Finance Limited should:

- End the agreement with no further liability for Miss A;
- Collect the car at no further cost to Miss A;
- Refund any rentals paid from May 2023 (inclusive) to the date of settlement (or waive any unpaid rentals for this period);
- Refund Miss A for the cost of the independent inspection report (£270) and the repairs undertaken to the oxygen sensor.
- Pay 8% simple yearly interest on all refunded amounts from the date of payment until the date of settlement;
- Pay £300 for any trouble and upset caused due to the faulty goods; and
- Remove any adverse information from Miss A's credit file in relation to the agreement.

### **My final decision**

My final decision is that Startline Motor Finance Limited should take the actions set out

above in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 15 August 2024.

Jane Archer  
**Ombudsman**