

The complaint

Miss A is unhappy that a car supplied to her under a Hire Purchase agreement with Startline Motor Finance Limited (Startline) was of an unsatisfactory quality.

What happened

In May 2023, Miss A was supplied with a used car through a Hire Purchase agreement with Startline. She paid an advance payment of £200 and the agreement was for £29,998 over 60 months; with 59 monthly payments of £780.22 and a final payment of £790.22. At the time of supply, the car was around four years old, and had done 41,979 miles.

The day after Miss A had collected the car, Miss A noticed that the engine management light had come on on the car, and contacted the supplier from whom she had purchased the car. Miss A agreed with the supplier to take it to their agreed garage for diagnostics which was carried out on 30 May 2023. This was inconclusive, and the recommendation was that Miss A took the car to a main dealer for a more in-depth check on the gearbox or transfer box.

On 6 June, Miss A contacted Startline to raise a complaint with the issues she was experiencing with the vehicle she had purchased.

Miss A did take the car to the main dealer to carry out diagnostics to identify the issues with the vehicle. On 16 June 2023, the main dealer identified that two of the tyres were worn, and new low pressure fuel cooler (underside) was required.

Startline provided their final response to the complaint to Miss A on 29 June 2023. In their response, they confirmed that they had been told that Miss A had reached an agreement on 21 June 2023 with the third party who supplied the car to have it repaired by them. They upheld the complaint, however as the repairs had already been agreed they did not offer any further resolution.

Startline have confirmed that on 4 July 2023, the following repairs were carried out;

- Supply and fit DPF Clean and Oil plus filter
- Supply and fit Transfer Box
- Supply and fit Diesel Cooler

In September 2023, Miss A made Startline aware that she wished to reject the car because it was still faulty however they did not agree with this.

Miss A wasn't happy with what'd happened, and she brought her complaint to the Financial Ombudsman Service for investigation.

Our investigator said that although it was reasonable to expect that someone buying a used car would expect that parts of the car might have already suffered wear and tear, he was persuaded that the car supplied to Miss A was not of a satisfactory quality taking into account its age, type and price at the time it was supplied. He identified that although Miss A wanted to reject the car and cancel the agreement, the Consumer Rights Act 2015 (CRA)

states that when a car isn't of satisfactory quality, a business has one right to repair the car to make it of satisfactory quality.

Because there was no evidence that the repairs were not successful the investigator asked Miss A to provide evidence that the car was still faulty, however she was unable to provide this. Therefore the investigator decided it would be unfair to ask Startline to allow rejection of the car.

Having agreed that the car was not of satisfactory quality when it was supplied to Miss A, the investigator stated it would be fair for Startline to provide a refund of two weeks of Miss A's monthly payment to reflect the time she had not been able to use the car. The investigator stated that interest should be added to this from the date of payment to the date of settlement, and an additional payment of £100 should be made to reflect the distress and inconvenience experienced by Miss A.

Miss A didn't agree with the investigator. She said that she had told the dealership she wanted to reject the car when it was collected for repairs in June 2023. She reiterated the fact that she was sold a faulty car which was past usual wear and tear and wanted to reject the car.

Because Miss A didn't agree with the investigator's view, this matter has been passed to me to make a final 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.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

I note that Miss A has stated in her correspondence relating to this complaint that she has a subsequent complaint, however in line with the rules of this service, my final decision has been focused on only her initial complaint – that the vehicle supplied to her under the agreement with Startline was not of satisfactory quality. If Miss A wishes to pursue the subsequent complaint with Startline, she must raise this with them in the first instance.

In considering Miss A's complaint relating to the quality of the vehicle supplied to her, 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. Miss A 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 Miss A to show it was present when the car was supplied.

So, if I thought the car was faulty when Miss A 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.

I have considered whether there is sufficient evidence to indicate that the car was faulty, or not of a satisfactory quality at the time it was supplied to her. When doing this I have considered the age of the car, the mileage and the price paid for it. Miss A states that the issues with the car began the day after it was supplied to her, which were confirmed via the diagnostics in the following weeks, and repairs carried out at the end of June 2023. Despite the fact that the car was a used vehicle, and as such, should be expected to have evidence of some wear and tear, I think it is reasonable to consider the more durable parts to have lasted longer than they have on this occasion and agree that the car was not of a satisfactory quality at the time it was supplied to Miss A.

Section 24(5) of the CRA says "a consumer who has ... the right to reject may only exercise [this] and may only do so in one of these situations – (a) after one repair or replacement, the goods do not conform to contract." This is known as the single chance of repair. And this applies to all issues with the goods, and to all repairs i.e., it's not a single chance of repair for the dealership AND a single chance of repair for Startline – the first attempted repair is the single chance at repair. What's more, if a different fault arises after a previous repair, even if those faults aren't related, the single chance of repair has already happened – it's not a single chance of repair per fault.

In June 2023, repairs were carried out on the car in line with the single chance of repair outlined above. A request for rejection may be made within 30 days of collection of the car, or if the previous repairs have failed. The evidence on file suggests that Miss A did accept the repairs carried out in June 2023 and didn't tell Startline she wished to reject the car until September 2023, more than 30 days after the car was supplied to her.

I have therefore concluded on balance that at the time Miss A had the car returned to her in July 2023, the repairs had been successful and it would not be fair to ask Startline to agree to rejection of the vehicle.

Miss A complained to Startline in September 2023 that she had continued to encounter issues with the car following the repair that had been carried out in June 2023. As Miss A has been unable to provide evidence such as mechanical diagnostics to support her assertion that the faults were still present, I cannot reach the conclusion that the repairs carried out were unsuccessful or the faults are a continuation of the previous issues.

For the reasons stated above, I uphold Miss A's complaint relating to the quality of the car supplied to her by Startline in May 2023.

Putting things right

It's clear that Miss A has been inconvenienced by having encountered issues so early in her ownership of the car, and the fact that this necessitated repairs to the car. So, I think Startline should compensate her for this. The investigator had recommended Startline pay Miss A a refund of her monthly payments for the time she did not have use of it, plus interest to the date of payment, with an additional £100 to reflect the distress and inconvenience

caused. This 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.

Startline have confirmed that they had already issued a payment to Miss A to cover the duration of the car's repair which they had calculated as 16 days at £25.17 per day – a total of £402.72. They state this was paid on 27 July 2023. As this was prior to the date of the investigator's view, there is no interest payable to Miss A. Nonetheless, Startline should still pay Miss A an additional £100 to compensate her for the trouble and inconvenience caused by being supplied with a car that wasn't of a satisfactory quality.

My final decision

For the reasons explained, I uphold Miss A'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 Miss A to accept or reject my decision before 10 July 2024.

Joanne Molloy
Ombudsman