

## **The complaint**

Miss M complains about a used car she acquired through a hire purchase agreement with MI Vehicle Finance Limited. The car has suffered an engine failure, that requires the engine to be replaced, and Miss M is unhappy she has been left with significant repair costs.

## **What happened**

Miss M acquired a used car in December 2021. The car was approaching four years old and had travelled less than 25,000 miles at that time. The car cost £10,995 and after paying a £200 deposit, Miss M borrowed £10,795 from MI Vehicle Finance Limited. This was to be repaid over 49 months at £199.71, plus a final payment of £3,486 if Miss M decided to keep the car.

The car broke down at the beginning of September 2022 and the recovery mechanic recorded '*White smoke, misfiring and engine unbalanced...Engine Oil Level Ok. Coolant Level Ok.*' The car's mileage was recorded as 25,673. Miss M says that she then took the car to be inspected further but no specific fault could be found. The car was serviced, with the spark plugs replaced, and Miss M continued using the car. Some time later, the car suffered further problems and Miss M has now been told the car requires a replacement engine. The car has not been used since May 2023.

The case was considered by one of our investigators and they explained why they considered Miss M's complaint should be upheld. In summary, they found the car was not of satisfactory quality when it was supplied to Miss M and MI Vehicle Finance Limited should now, amongst other things, arrange for the car to be repaired. The investigator set out that if the repairs were found to be uneconomical, Miss M should be allowed to reject the car.

MI Vehicle Finance Limited did not accept the investigator's findings, so the case was progressed so an ombudsman's final decision can be issued. The investigator has more recently set out that on reflection, MI Vehicle Finance Limited should allow Miss M to reject the car as the costs of the replacement engine against the value of the car means the repairs are uneconomical.

## **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.

First, I'm very aware that I've summarised this complaint in far less detail than the parties and I've done so using my own words. I'm not going to respond to every single point made by all the parties involved. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

MI Vehicle Finance Limited supplied the car to Miss M under a regulated hire purchase agreement. Because of that, our service is able to consider complaints about the hire purchase agreement and the goods, i.e. the car, supplied under the hire purchase agreement. As the supplier of the car, MI Vehicle Finance Limited has an obligation to ensure the car supplied was of satisfactory quality – as set out in the Consumer Rights Act 2015. Satisfactory quality is what a ‘reasonable person’ would expect, considering amongst other things the age and price of the car.

Section 9 of the Consumer Rights Act 2015 refers to satisfactory quality and notes that the quality of goods includes their state and condition. It goes on to list the following aspects, amongst others, of the quality of goods, (a) fitness for all the purposes for which goods of that kind are usually supplied; (b) appearance and finish; (c) freedom from minor defects; (d) safety; (e) durability.

It is reasonable in my view to note the car here was not new and had already travelled some miles at the time of supply. So, it would be unreasonable to expect a used car like this to be in the same ‘as new’ showroom condition which it would have been when first supplied. But just because the car was used with some mileage, doesn’t mean that MI Vehicle Finance Limited has no requirements in relation to satisfactory quality, or more specifically durability.

It’s clear the car broke down in September 2022 and Miss M has told us further diagnostic work was done at that time to try and identify a problem. The car was inspected but Miss M says she was told no underlying issue can be identified. Miss M therefore continued to use the car. This seems entirely plausible in my view and having been told no issue could be found, with the car now working again, it would not in my view be unreasonable for Miss M to have continued to use the car. I see little alternative in the circumstances.

The car failed again some months later and has suffered a significant engine issue that requires a replacement engine. By that time the car had only travelled approximately 33-34,000 miles. I have not seen any evidence to indicate the earlier problems Miss M had experienced are specifically linked to the engine failure or that Miss M was aware of an issue and should have stopped using the car. Having considered what the Consumer Rights Act sets out about durability, I think a reasonable person would not expect a car to suffer a catastrophic engine failure at such low mileage. This in my view demonstrates the car, or more specifically the engine and its components, were not sufficiently durable. And because of this, the car was not of satisfactory quality as required and set out in the Consumer Rights Act 2015.

As I have found the car was not of satisfactory quality, I will now consider what is required to put things right.

### **Putting things right**

I understand that the car now requires a replacement engine and this is estimated to cost in the region of £8,500. When Miss M acquired the car the price was £10,795 and considering the likely value of the car even if the engine was working as it should, I do not think it reasonable to expect Miss M to wait, suffer further inconvenience getting the car repaired, when those repairs are likely to be uneconomical. I’m also conscious of the time the car has been left unused and the additional impact this would have had on the car now after a considerable period.

Because of this, I consider it reasonable for MI Vehicle Finance Limited to take back the car from Miss M and cancel the hire purchase agreement with nothing further owed. MI Vehicle Finance Limited should arrange for the car to be collected and Miss M should not be responsible for any associated costs with taking the car back.

Miss M should receive a refund of the £200 deposit payment she made at the outset and as she hasn't been able to use the car since May 2023, any repayments to the hire purchase agreement since May 2023 should also be refunded to Miss M.

Interest, at 8% simple per year, should be added to each of the refunded payments from the date of each payment until the date of settlement.

Finally, Miss M has incurred some distress and inconvenience as a result of being supplied a car that was not of satisfactory quality. This has understandably had an impact on her and I consider it reasonable that MI Vehicle Finance Limited make an additional payment to reflect this. A sum of £250 is reasonable in my view considering the circumstances of this complaint.

If MI Vehicle Finance Limited does not settle the complaint within 28 days of Miss M accepting it, interest at the same rate as set out above should be added to the £250.

### **My final decision**

My final decision is that I uphold Miss M's complaint and direct MI Vehicle Finance Limited to settle the complaint in accordance with what I have set out in the putting things right section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 24 April 2024.

Mark Hollands  
**Ombudsman**