

The complaint

Ms C complains that a car acquired under a conditional sale agreement with Stellantis Financial Services UK Limited (Stellantis) wasn't of satisfactory quality when it was supplied to her.

What happened

The parties are familiar with the background of this complaint so I will only summarise what happened briefly here.

In July 2023, Ms C acquired a used car from a dealership (D). She made an advance payment for the car, with the balance being provided by Stellantis under a conditional sale agreement. The car was six years old and had covered approximately 23,400 miles when the agreement started. The agreement was for 60 months, and the cash price of the car was £15,265.

A day after being supplied with the car, Ms C noticed some issues with it. She took it to her local garage, who said that, amongst other things, there were issues with the front lower intercooler hose leaking oil, the offside driveshaft seal was leaking, the fanbelt was cracked, and the front lower wishbone bushes were split.

Ms C got in touch with D at this point as she was unhappy with the car. She told D they'd told her the car was in 'excellent condition.'

Over the next couple of months Ms C took the car back to D on a few occasions to try and get the car repaired. She's said that D changed the suspension bushes without agreement, but the remainder of the faults remained, and Ms C noticed a knocking noise when braking. Ms C asked her garage to look at the car again in August 2023. They said some of the initial faults had been fixed but the knocking noise was coming from the recently replaced suspension bushes. They also said the intercooler hose was still leaking, as was the driveshaft seal.

In September 2023, as the car still wasn't repaired, Ms C contacted Stellantis. She provided her evidence to them and asked to reject the car. Stellantis didn't allow this. They said the car had passed an MOT a month prior to Ms C being supplied with it, and D had offered to change the pipe and seal to resolve things. They did agree to a refund of one month's payment for the inconvenience Ms C had been caused.

Unhappy with this, Ms C brought her complaint to our service. Our investigator said he was satisfied the car wasn't of satisfactory quality when it was supplied to Ms C. He said attempts to repair the car hadn't been successful and, because of that, Ms C could now reject it. He asked Stellantis to end the agreement, collect the car, and retain two monthly payments to reflect the use Ms C had of the car whilst in her possession.

Ms C accepted this. Stellantis didn't. They were concerned about the format of one of the reports Ms C's garage had provided and asked for an ombudsman's decision.

As Stellantis didn't agree, it's been passed to me to decide.

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.

Ms C has provided a lot of information here. I'd like to reassure her that I've read and considered everything that's been sent, although I haven't commented on it all within this decision. I will be focussing on what I consider to be the key points of the complaint.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations, relevant regulatory rules, guidance and standards and codes of practice.

As the conditional sale agreement entered by Ms C is a regulated consumer credit agreement this service is able to consider complaints relating to it. Stellantis are also the supplier of the goods under this type of agreement and are responsible for a complaint about their quality.

The Consumer Rights Act 2015 (CRA) covers agreements like the one Ms C entered. Because Stellantis supplied the car under a conditional sale agreement, there's an implied term that it is of satisfactory quality at the point of supply. Cars are of satisfactory quality if they are of a standard that a reasonable person would find acceptable, taking into account factors such as – amongst other things – the age and mileage of the car and the price paid.

The CRA also says that the quality of goods includes their general state and condition, and other things like their fitness for purpose, appearance and finish, freedom from minor defects and safety can be aspects of the quality of the goods.

But on the other hand, satisfactory quality also covers durability. For cars, this means the components must last a reasonable amount of time. Of course, durability will depend on various factors. In Ms C's case, the car was used and had covered approximately 23,400 miles when she acquired it. So, I'd have different expectations of it compared to a brand-new car. Having said that, the car's condition should have met the standard a reasonable person would consider satisfactory, given its age, mileage, and price.

Our investigator has explained that he thinks the car wasn't of satisfactory quality when it was supplied to Ms C. I agree in this case. There is no doubt that the car has some faults – the inspection reports from the garage confirm that to be the case. And I'm persuaded, from what I've seen, that the car wasn't of satisfactory quality when it was supplied to Ms C. I'll explain why.

The CRA explains that where goods are found not to have conformed to the contract within the first six months, it is presumed the goods did not conform to the contract at the point of supply. Unless the supplier, Stellantis in this case, can prove otherwise. Ms C brought the problems with the car to Stellantis's attention within two months of being supplied with it, having already had a couple of attempts to repair from D. So, at that point, I'm satisfied Ms C had proven that the car wasn't conforming to the contract she'd entered at the point of supply, and it was for Stellantis to try to prove this wasn't the case. But, when Ms C notified Stellantis of her concerns I'm not persuaded they did enough to comply with the CRA in this case. They explained to Ms C that the car had passed an MOT a month prior to her acquiring the car, and that D had offered to '*change the pipe and seal.*' Stellantis said this resolved the issues with the car.

However, Stellantis also provided some information about the CRA in their final response to Ms C, and that explained that D should be given one chance to repair or replace before Ms C can ask to reject the car. And from the information Ms C provided, along with her testimony, I'm satisfied it was clear to Stellantis that D had already had the car back to look at the faults Ms C's own garage had identified in July and August 2023. The report from August 2023 confirmed the intercooler hose was still leaking, as was the driveshaft seal, but the other faults identified in their report in July 2023 had been rectified. And it's known that the suspension bushes had been replaced. So, it's clear that a previous attempt to repair had taken place. It follows that I don't think Stellantis's response is enough to satisfy me they have done enough to try to prove the car didn't conform to the contract when it was supplied. And because repairs have been attempted and haven't fixed the problems, it's my decision that Ms C can now reject the car.

Stellantis have raised concern about the latest report Ms C has provided, from March 2024. They think it's in a format that allows it to be amended. However, they haven't shown our service anything to suggest the report has been amended, and I have no reason to believe Ms C, or her garage have acted inappropriately here. The format of the report from her garage is in the same format in July and August 2023. Ms C's testimony has also been consistent throughout the time her case has been with our service, and I find her testimony and evidence the most persuasive when making my decision. It's worth noting that Stellantis haven't shown they disagree with our investigator's opinion that the car can now be rejected, or why they might disagree with it, which I might have expected them to do when they asked for the case to be considered by an ombudsman.

I'm satisfied that the attempts to repair the car have failed. Stellantis should now end the agreement with nothing further for Ms C to pay, and they should make arrangements with Ms C to collect the car – at no further cost to Ms C.

Because of the ongoing problems with the car, Ms C has had limited use of it, and it's also been declared SORN for a period of time. Ms C has confirmed the current mileage at 25,916 – an increase of approximately 2,000 miles since she acquired the car in July 2023. I think it's fair that she should pay for the use she's had of the car, but that has been minimal. I'm in agreement with the investigator that Stellantis can keep two monthly payments, and the remainder should be returned to Ms C.

It's clearly been a challenging time for Ms C, having been supplied with a car that wasn't of satisfactory quality, and I hope this decision allows her to move forward.

My final decision

For the reasons above, I'm upholding this complaint. Stellantis Financial Services UK Limited must:

- end the agreement with nothing further for Ms C to pay;
- collect the car at no further cost to Ms C;
- refund Ms C's advance payment of £7,500;
- refund Ms C's monthly payments, apart from the first two, to reflect the limited use she's had of the car;
- pay 8% simple interest on all refunded payments, from the date of payment until the date of settlement;*
- remove any adverse information from Ms C's credit file in relation to this agreement.

*If Stellantis Financial Services UK Limited consider that they're required by HM Revenue & Customs to deduct income tax from that interest, they should tell Ms C how much they've

taken off. They should also give Ms C 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 Ms C to accept or reject my decision before 16 October 2024.

Kevin Parmenter
Ombudsman