

The complaint

Mr F complains about a car acquired through a Hire Purchase agreement with Specialist Motor Finance Limited ('Specialist'). Mr F has had problems with the car from the start and it's been in for repairs multiple times. He wants to hand the car back and his payments to be refunded.

What happened

Mr F acquired the vehicle in March 2023. When it was supplied, it was ten years and six months, had covered 66,707 miles and cost £7,999.00.

Mr F says the car broke down 20 minutes after he first picked it up and it went in for repair the next day. The car then had a series of drivetrain error messages and the car went into limp mode, which the dealer attempted to repair a few times, including sending the car to a separate garage.

He said the car was using lots of oil and the car needed replacement piston rings and much of the engine needed rebuilding. After the repair was carried out the drivetrain error returned. Mr F wanted to reject the car. Mr F still has the car, but it hasn't been used since August 2023, though payments have continued.

He says he was only given a courtesy car on one occasion. He says he paid over £290 for the car being recovered, topping up oil and insurance – and had to buy a replacement car for £1,250 to get by. He says he didn't have evidence of the issues and repairs because the dealership organised all the repairs and kept all the receipts.

Mr F has provided an email from an insurer which he says outlines a charge of £82.11 for updating the insurance policy to a courtesy car in July 2023. He said he couldn't provide evidence for the costs of regularly topping up the oil and the recovery he had to pay for.

In October 2023, Specialist said it wasn't in a position to respond to Mr F's complaint so he referred it to our service.

A photograph provided from May 2024 shows that the mileage at that point was 72,002.

The investigator who initially reviewed the complaint contacted Specialist on multiple occasions to get information about the complaint. But it hadn't responded to any of these requests for information.

They said because Specialist hadn't engaged with the complaint, they could only go by what Mr F had said and his account had been consistent and persuasive. They said although they couldn't confirm the mileage when faults occurred and the exact work carried out, they felt the repeated faults so soon into the agreement, which repairs didn't resolve, made it fair for Mr F to reject the car.

They said he should have his deposit refunded and his payments refunded – in part up to August 2023 and in full from August 2023 onwards. They also felt an additional insurance

payment he had to make should be refunded along with paying him £250 for the impact this all had on him.

Mr F felt he should be refunded the recovery and oil costs, because the investigator had accepted everything else he'd said.

Since then the car was clamped because it was on the road while registered SORN. Mr F provided a screenshot of a pending payment of £260 to 'www.cartaxenfo..' to release the car. He says he also had to insure the car to drive it somewhere for it to be kept off road, costing £19.86. Mr F provided a letter from the DVLA in September 2024 explaining the car had been kept on the road while registered SORN and a charge of £125 would apply.

The investigator's view didn't change and because Specialist didn't respond to the investigator's view on the complaint, it was referred for an ombudsman's decision.

While the case was waiting for a decision, Mr F said he wanted to claim storage costs for the car. He said he had to sell one of his cars to make room for it – and that he wanted to claim £25 per day for storage costs from July 2023 to February 2025, totalling £4,850. But he couldn't provide any further evidence of the costs he says he incurred. He provided an invoice for car storage, however it seems this is an invoice he's written rather than an invoice from a third party charging him.

Mr F said all the contact with the dealership was by telephone and he could no longer provide any details as it all happened nearly two years ago. He provided photographs from February 2023 showing a drivetrain fault on the dashboard and of the pavement showing what he says is an oil leak from the car.

He said the car had been to the garage on a few occasions and this was all organised by the dealership. And he could only provide an invoice from one of these visits. In April 2023 an invoice shows the exhaust VANOS solenoid valve was replaced in order to address a drivetrain error. It doesn't note the mileage at this point.

The investigator notified Specialist of the SORN charge and storage costs Mr F was claiming for. Specialist responded for the first time apologising for the lack of contact. It didn't think the storage fees would be fair given the timeline of events – and provided its complaint records.

It said Mr F had complained about the drivetrain still being faulty after it, and a number of other issues, had already been attended to. It says Mr F provided photos showing a drivetrain fault warning on his dashboard and he requested to reject the car. Specialist says it forwarded these pictures to the broker and dealership who did the initial repairs.

It says there were initial discussions about rejecting the car, but Mr F wasn't happy about the amount he would be charged for the use of the car since it had been supplied. But the dealer then agreed to arrange for the car to be repaired. Though it seems this never materialised and this prompted Mr F's referral to our service.

Specialist sent the photos it was provided when Mr F first complained. At this point the mileage was 71,962.

An email from the broker in October 2023 indicated that they were trying to arrange the rejection of the car, but the dealership wasn't willing to pursue this option. There were then queries around who would be liable for repairs if they were carried out. Correspondence between Specialist and the broker indicated that the dealer was obstructing the return of the

car. By December 2023 the broker messaged Mr F to say he should try to contact the dealership directly to resolve the matter.

Specialist contacted the dealership in January 2024 to pursue the rejection of the car. But it hadn't been able to make successful contact with the dealership thus far. In March 2024 the dealership said because the car had continued to be used they would no longer accept rejection. Though Specialist's internal notes show the rejection was still being pursued. These notes also demonstrate a discussion between Specialist and Mr F in April 2024 which highlighted the need to move the car as it had no insurance or MOT. Mr F also expressed his concern about adverse information being reported and being contacted about missed payments.

As the case remains unresolved, it has been passed to me to issue 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.

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Having done so, I've come to the same outcome as the investigator.

I'm required to take into account the relevant laws and regulations; regulators rules, guidance, and standards; codes of practice and, when appropriate, what I consider to have been good industry practice at the relevant time. I may not comment on every point that's been raised, but I have read and considered everything that's been said. Instead I will focus on what I think are the key points to reach a fair and reasonable decision. This reflects the nature of our service which was set up to be an informal alternative to the courts.

Where information or evidence is missing or contradictory, I'll make my decision based on the balance of probabilities – that means what I consider to have more likely than not happened – given the available information.

I will lay out what I consider to be the key facts and the considerations I've taken into account when reaching my decision.

Mr F acquired the car through a Hire Purchase agreement with Specialist. Under this type of arrangement, Specialist became the supplier of the car and is responsible if the goods aren't of satisfactory quality when provided. The key legislation for me to consider in complaints of this nature is the Consumer Rights Act 2015 ('CRA'). This outlines, among other things, that goods should be of satisfactory quality at the time they're supplied.

Satisfactory quality is described as the standard that a reasonable person would expect taking into account, among other things, the description, age and price of the goods. The quality of the goods includes their state and condition - and where appropriate their fitness for purpose, appearance, freedom from minor defects, safety and durability should be taken into account.

When the car was first supplied, it was ten years and six months old, had covered 66,707 miles and cost £7,999.00.

In these circumstances the car would have accumulated a fair amount of wear and tear over its lifetime. As a result it may require more regular servicing, maintenance or than a newer less used car.

In this instance Mr F has alleged that the car had a fault almost immediately – and that faults returned repeatedly. If it's the case that faults arose so soon then the issues were more likely present at the point of supply. We have limited evidence of these earlier faults, but none of the parties has contested this.

When faults arose again in August 2023 and Mr F complained about them, Specialist and the broker accepted that Mr F would be entitled to reject the car - all sides seem to accept this. However the correspondence between Specialist and the broker indicates this didn't happen because of ongoing negotiations around how much would be retained to reflect the use of the car since it was supplied. It's not clear why the car wasn't collected at that point to mitigate any further costs to Mr F – or to crystallise any redress that may have been due at that time. Mr F still has the car and has experienced some costs as a result.

The evidence he's provided – and that provided by Specialist – is consistent with Mr F's submissions that he had a fault with the drivetrain early on, which returned soon afterwards after an initial repair and that it still remains.

Although the car was used at the point of supply, I'm persuaded there was a fault with the car that made it not of satisfactory quality – and that it returned after attempts at repair – meaning it's now fair, and consistent with the CRA, that he's entitled to reject the car.

Putting things right

A consistent drivetrain fault has on balance been evidenced and I am persuaded that it's fair for him to be able to hand the car back on this basis.

It seems the issue returned in August 2023. I agree with the investigator that prior to that Mr F's payments should be refunded in part – and that all payments from then on should be refunded in full. He should also be refunded his deposit in full.

Mr F hasn't been able to evidence a number of the costs he says he incurred – so I'm not persuaded these should all be refunded.

He has provided evidence of insurance costs of £19.86 to move the car off road after being fined and £82.11 for his motor policy to be transferred onto another vehicle after this one failed. As Mr F should have had adequate insurance for the car in any event, I'm not persuaded the insurance cost of £19.86 is one he wouldn't have had to pay for anyway. However it does seem as though the £82.11 charge to transfer his policy to the courtesy vehicle does seem as though it wouldn't have been incurred had the car been of satisfactory quality and so, like the investigator, I don't think this is something he should fairly pay for.

Mr F said he also incurred costs for buying oil and for recovery, but hasn't been able to provide an invoice or receipt for any of these. As these aren't evidenced I don't think it's fair for me to direct Specialist to pay Mr F for these.

Mr F has provided a letter from the DVLA advising that in July 2024, the car was being kept on the road despite it being registered as off road and Mr F had to pay a £125 fine. He also provided a screenshot showing a pending payment of £260 which he says was to have the car released after it had been clamped.

I do accept that Mr F was in somewhat of a bind with respect to the situation he found himself in. This fine and clamping charge came about in July 2024, but I can see that discussions were had with Specialist in April 2024 and Mr F was advised the car would have to be moved if it was on the road without tax.

I accept that if the car had been rejected sooner this would never have come about. However given Mr F did not take the action he needed to at that time to avoid incurring this sort of fine, after he'd been advised it could cause an issue, I don't think it's fair for Specialist to have to pay for that. He ended up taking the action needed to after he was fined, and I haven't been provided with persuasive evidence to demonstrate why that couldn't have been done sooner in order to avoid these fines.

The storage costs Mr F has advised of don't seem to be a cost he has incurred from a third party. He said he sold one of his cars in order to make room for this one. Because I haven't been provided with persuasive evidence to show that Mr F has incurred these costs himself, I don't think it's fair for these to be refunded.

Looking at the impact this matter has had, it was a protracted and frustrating experience, and I think this would have had an impact on Mr F. However, it does seem that much of the impact here was to Mr F's son and that's not something I can address as part of this complaint, given Mr F is Specialist's customer. I have to assess the impact on Mr F, rather than other's close to him that aren't Specialist's customer. So, I think the £250 compensation suggested by the investigator is fair in the circumstances.

Specialist should now:

- End the agreement with nothing further to pay and collect the car at no cost to Mr F
- Refund his deposit
- Refund 20% of his payments up to August 2023
- Refund all payments since August 2023
- Refund the £82.11 insurance charge he incurred
- Pay 8% simple interest on the above refunds from the date of payment to the date of settlement
- Pay Mr F £250 to reflect the distress and inconvenience this matter has caused him
- Remove any adverse information reported to credit reference agencies

* If Specialist considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr F how much it's taken off. It should also give Mr F a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

** If Specialist does not pay this £250 compensation for distress and inconvenience within 28 days of the date on which we tell it Mr F accepts my final decision then it must also pay 8% simple yearly interest on this from the date of my final decision to the date of payment.

My final decision

My final decision is that I uphold Mr F's complaint against Specialist Motor Finance Limited.

It must now settle the complaint in line with what's outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 10 April 2025.

Scott Walker
Ombudsman