

The complaint

Mr L complains that Startline Motor Finance Limited won't reimburse him for the cost of repairing a car it supplied to him under a hire-purchase agreement.

What happened

Mr L acquired a used car via a dealer "R", supplied to him by Startline under a hire-purchase agreement. At the time, the car was around 8 years old and had covered a little less than 82,000 miles. The cash price attached to the car was £8,198.

A few months later, after Mr L had done about 2,400 more miles, the car broke down. A mechanic "B" diagnosed the problem as being with the automatic transmission, replacing the clutch and flywheel, along with other sundry items. The total cost of repair was £1,656.66, which Mr L paid as he needed to use the car for work.

B said it suspected the issue was present when Mr L got the car, given the limited additional mileage undertaken since then. R declined to assist or look into the issue, saying that the clutch was a serviceable component. So Mr L turned to Startline for assistance, providing it with the information from B.

Startline said that because Mr L hadn't obtained its authorisation to carry out the repair work, it couldn't reimburse him. It said this was in line with the Consumer Rights Act 2015 ("CRA"). Startline added that it had liaised with the dealer network, who had said it would contribute £250 towards Mr L's costs. Mr L was dissatisfied with this response and complained to us.

Our investigator found that when Startline supplied the car to Mr L, the car didn't meet the CRA requirement that it should be of satisfactory quality. The investigator found B's comments persuasive, and that in light of this finding, Mr L would have been entitled to have the car repaired.

As that repair had in any event been carried out by B, and, bearing in mind the reasons Mr L had given for the urgency of the repair, the investigator considered it appropriate that Startline reimburse (with interest) Mr L the costs he'd incurred. The investigator also proposed that Startline remove any adverse payment information from Mr L's credit file, along with paying him compensation for his time and trouble.

Startline hasn't accepted the investigator's conclusions and so the case has been passed to me for review and determination, as the final stage in our process.

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.

Because Mr L acquired the car from Startline as a consumer, the arrangements are covered by – among other things – the Consumer Rights Act 2015 ("CRA"). One effect of the CRA is

that the agreement between Mr L and Startline is to be read as including a term that the car would be of satisfactory quality.

Whether goods are of satisfactory quality is determined by reference to whether they meet the standard a reasonable person would consider satisfactory, taking account of matters such as price and description, and includes (among other things) matters such as appearance and finish, freedom from minor defects, safety and durability.

I'm fully aware the car was far from new and so the standard a reasonable person might expect from it would be lower than for a car that had covered fewer miles. Buying a used car carries some inherent risks, not least of which is that sooner or later items will need repair or replacement. The parts that failed on Mr L's car wouldn't be expected to last indefinitely, and like most mechanical items will wear over time. The CRA provisions reflect this in requiring that account is taken of matters such as the price and description – which includes aspects like age and mileage.

That said, the price attached to the car and the general expectation of freedom from minor defects suggests that one might expect such a car not to breakdown in the way it did only a few months (and not many miles) after supply. I think a reasonable person would expect to get rather more use out of a car they'd recently acquired than Mr L did before the failure.

Further, as I understand it R – in line with general good industry practice¹ in the used car sales sector – had pre-inspection procedures in place to check the mechanical condition of vehicles offered for sale. According to R's website, such checks included a road test that included *"Particular attention to the operation of clutch, transmission, steering, suspension and brakes"*.

Noting B's comments about the likelihood that the problem was present at point of supply, I might have expected to see Startline obtain and provide the record of R's inspection in order to rebut the claim. Absent this, and in light of the response Startline did issue, which didn't dispute that the car was not of satisfactory quality, I've no reason to find otherwise.

I now turn to the reason Startline did give for not meeting Mr L's claim. It said that it wasn't willing to reimburse Mr L because it hadn't authorised the repairs. I don't see that this changes whether Startline is liable to Mr L for supplying him with a car that wasn't of satisfactory quality. The CRA doesn't say that liability only arises where the trader (in this case, Startline) has authorised the repair. If it did, a trader could simply frustrate any claim simply by not authorising a repair.

Mr L raised his concerns about the car within six months of acquiring it. The failure suggests a lack of satisfactory quality amounting to a breach of contract. The CRA says that goods that don't conform to contract at any time within six months of the consumer taking delivery are to be taken as not conforming to it at the point of supply, unless it is established that the goods did conform to contract on that day. Startline hasn't provided anything to rebut the CRA presumption. One of the remedies available to Mr L in such circumstances was for the car to be repaired within a reasonable time and without significant inconvenience to him, with Startline bearing any necessary costs incurred in doing so.

Clearly, Startline's response hasn't met this requirement. Given the inconvenience Mr L was facing by not having the car promptly repaired, I don't consider it was unreasonable for him to have the work carried out and then seek to recover the cost from Startline. I would remind Startline that in addition to or in place of the statutory remedies set out in the CRA, under

¹ See, for example, Chartered Trading Standards Institute guidance to car traders on Complying with the Consumer Protection from Unfair Trading Regulations 2008

Chapter 19 of the CRA a consumer is able to seek other remedies open to him in the circumstances, including (but not limited to) damages – such as the costs of repair.

Taking all of this into account, I find that Startline hasn't dealt with Mr L fairly in its response to his claim. I see no reason why Mr L shouldn't be entitled to recover the costs he's demonstrated arising from the failure to supply him with a car of satisfactory quality, or that he shouldn't be compensated for the distress and inconvenience he experienced from Startline's handling of matters.

I don't see any reason to require a refund of rental payments; this isn't something Mr L has sought and the period between the breakdown and repair was sufficiently short that this isn't really warranted. After careful consideration I'm satisfied that apart from this, the resolution our investigator proposed in his initial assessment is a fair way to resolve the complaint. For clarity, I've set this out below.

Putting things right

To resolve this complaint Startline Motor Finance Limited must, within 28 days of receiving Mr L's acceptance of my decision, take the following steps:

1. Pay Mr L £1,656.66 in recognition of the invoiced cost of repairing the car
2. Pay interest on this sum at 8% simple per year from the date Mr L paid the invoice (which I understand to be on or shortly after 14 July 2023) until the date it pays this settlement
3. Pay Mr L £100 as compensation for distress and inconvenience it caused to him
4. Remove any adverse payment information it may have recorded on Mr L's credit file in relation to the credit agreement

My final decision

My final decision is that I uphold this complaint and direct Startline Motor Finance Limited to take the steps I've set out.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 3 October 2024.

Niall Taylor
Ombudsman