

The complaint

Miss E complains about the quality of a used car she acquired through a hire purchase agreement with Secure Trust Bank Plc trading as V12 Vehicle Finance (V12).

What happened

On 26 April 2023 Miss E entered a hire purchase agreement with V12 to acquire a used car from a dealership. The cash price of the car was £7,294 and Miss E paid a £1,000 deposit. With interest the total amount payable under the agreement was £10,130 payable by 59 monthly payments of £152 and a final monthly repayment of £162 with an option to purchase fee of £10.

At the time Miss E acquired the car it was nearly eight years old (registered in June 2015) and had travelled 60,000 miles.

Miss E complains that the car had multiple faults when she acquired it. In summary she said:

- A few days after buying the car the brakes started squeaking. When she spoke to the dealership about the problem it asked her to send the car back for repair but she didn't want to do the two hours journey in a car that had issues with its brakes. She paid her local garage £245 for the repair and the dealership contributed £180 towards the repair. She wanted to pay for the repair to keep the car as, at that time, she thought that was the only issue with the car.
- In June 2023 she heard a noise coming from the car. She took it to another garage (which I'll refer to as S) who suspected a problem with the head gasket. S didn't deal with head gasket problems and it recommended she take the car to another garage (which I'll refer to as O). O examined the car and said the water pump was leaking, rather than the car having issues with the head gasket.
- She contacted the warranty provider to ask them to cover the cost of the repairs for the water pump. The provider said there was no cover under the warranty as it was a wear and tear related issue, so it wouldn't pay.
- She then contacted the dealership about the water pump and she told it she wanted to reject the car. The dealership refused to accept the car and offered a £100 contribution to repair the water pump, which cost £378.01.
- In December 2023 the car had more issues. She took the car to O who suspected there was an issue with the head gasket but it said the engine needed stripping down to investigate.

Miss E then complained to V12 about the quality of the car. V12 asked her to get a report from a reputable VAT registered garage to give a view on whether the car was faulty when it was supplied. Miss E took the car to the relevant manufacturer specialist garage (which I'll refer to as W). W told her the car's engine would need to be stripped down to see if the problem was definitely with the head gasket, which would cost £1,500.

V12's final response letter to Miss E didn't uphold her complaint. It said Miss E had driven the car 7,100 miles since the repair of the water pump and over 12,000 miles since she acquired the car when the head gasket problem developed. V12 considered that Miss E wouldn't have been able to travel that number of miles in the car if the head gasket problem had been present or was developing when she acquired the car.

Miss E also complained to us in December 2023. She says the dealership knew there were faults with the car which is why it didn't do an MOT before supplying the car to her. She sent us several on-line reviews from customers of the same dealership saying their cars had problems soon after they acquired a car from the dealership.

Miss E wants to reject the car and have the finance agreement ended. She would consider having the car repaired with V12 paying the costs. Miss E told us that she had no money for repairs and she has children in her car every day. She's worried the car will break down completely and she'll be left with no car and a lot of debt.

Our Investigator explained that when we considered a complaint we only take into account the evidence that's specific to the complaint, so we couldn't take into account the reviews from other customers about the dealership.

Our Investigator said V12 had reasonably considered the car was of satisfactory quality when it was supplied to Miss E.

Miss E then raised a new issue – she said she had paperwork showing the garage found the car had a broken thermostat. She said the car was sold with a broken thermostat which would have caused the head gasket problem.

Our Investigator explained that Miss E would need to send evidence of the new issue to V12 and give it an opportunity to comment before we could investigate that issue.

Miss E wants an Ombudsman to consider her complaint.

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.

I've summarised the arguments above but I've read and considered all the evidence that has been submitted. My role is to consider whether V12 responded fairly to Miss E's complaint. I'm sorry to disappoint Miss E but I think it did. I'll explain why, focusing on what I see to be the key issues.

The hire purchase agreement between Miss E and V12 is a regulated hire purchase agreement. So this Service is able to consider complaints relating to it. V12 is the supplier of the goods under this type of agreement and is responsible for Miss E's complaint about the car's quality.

In considering what's fair and reasonable, I need to have regard to the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and, where appropriate, what I consider to have been good industry practice at the relevant time.

The Consumer Rights Act 2015 (CRA) is relevant to this complaint. It says that under a contract to supply goods, there is an implied term that "the quality of the goods is satisfactory". To be considered "satisfactory", the goods would need to meet the standard that a reasonable person would consider satisfactory – taking into account any description of

the goods, the price and all the other relevant circumstances. It seems likely that in a case involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage at the time of sale and the car's history.

The quality of the goods includes their general state and condition and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability.

The car was eight years old and had travelled 60,000 miles when Miss E acquired it. The price of the car was lower than it would have been if it had been supplied new. Although the car had done lower than average mileage, I think it's fair to say there's a greater risk a car of this age might have already suffered wear and tear. And there's a greater risk this car might need repair and/or maintenance sooner than a car which wasn't as old when it was supplied.

At the time Miss E complained to V12 there had been faults with the car. I've seen the handwritten receipt dated in June 2023 for the repair of the brake disc pads, and there's evidence the water pump had to be repaired in June 2023. So there were faults with the car within the first six months of Miss E acquiring the car. Where a fault occurs within the first six months of a car being supplied there's a presumption that the fault was present at the point the car was acquired, unless it can be shown otherwise.

But even if the fault was present within the first six months I still need to consider whether the fault means that the car wasn't of satisfactory quality, taking into account the factors I've detailed above. If so I have to consider what's the fair remedy taking into account the CRA and all the circumstances of the complaint.

Miss E realised there was a problem with the brake pads and discs a few days after she acquired the car. Given the age and mileage of the car I think the worn brake pads were wear and tear items. But even if I thought the worn brake pads meant the car wasn't of satisfactory quality Miss E acknowledges that she didn't want to reject the car at that point. While I appreciate she didn't want to travel to the dealership, which was some distance away, the dealership made a fair offer to repair the car. As the dealership wasn't given the opportunity to repair the brake pads I understand it contributed towards the repair costs, which was fair in the circumstances.

I've seen S' handwritten note from June 2023 which said it found the water pump leaking, did a pressure test and found a head gasket fault then referred the car to O for further investigation. O's report from June 2023 says:

'car checked for overheating, pressure test cooling system and found water pump is leaking, check and replace water pump with new, refill with antifreeze and bleed cooling system. Test correct operation of cooling fan ok'.

O's invoice reports the car's mileage in June 2023 as 64,814 miles. So Miss E had been able to drive the car for 4,814 miles before the water pump problem started. I think V12 could reasonably consider that the water pump fault was wear and tear related, which is Miss E's responsibility. I note the dealership paid £100 towards the cost of the repair which was reasonable.

I've also seen O's report in December 2023 which said:

'pressure test cooling system for leaks but none found. Run engine up to temperature and found hoses pressured – suspect head gasket but needs further strip down to investigate'.

The screenshots Miss E sent of her messages to and from the dealership refers to her being told that the engine needs to be stripped and her calling V12. So I think she messaged that she wanted the dealership to either 'buy the car back' or to repair the head gasket in December 2023, outside of the first six months she acquired the car. The dealership refused. I haven't seen evidence before December 2023 that Miss E told either the dealership or V12 that she wanted to reject the car.

Following O's report Miss E complained to V12. That led to the car manufacturer's (W) report on 6 February 2024, which said:

'Notes

*Carried out investigation into coolant loss
no sign of any external leak-appears to have coolant bottle replaced and outlet tank fan runs constantly - and appears that fan resistor is cable tied
carry out pressure test and carry out head gasket testing-inconclusive.*

Result

*But suspect head failing causing loss of CO
would require head removal and pressure testing of head for 100% diagnosis
thermostat also does not appear to be opening-suspect fault thermostat
both lower arms required
requires service.*

Notes

*Requires front tyres
Replaced coolant cap for customer to test'.*

So W's test for the head gasket was inconclusive, it suspected the car's head gasket was failing but said further investigation is required.

W's invoice dated 6 February 2024 records the car's mileage as 72,937.

Miss E believes the car was supplied to her with the head gasket problem. I accept that S suspected there was a problem with the head gasket in June 2023. But the evidence from O (who S recommended to look into whether there was a problem) is that the head gasket wasn't the problem in June 2023. The fault then was the water pump, which was repaired and then no problem was found.

Miss E was then able to drive 8,123 miles since the water pump repair before garage W suspected the head gasket fault. And she'd been able to drive nearly 13,000 miles since she'd acquired the car.

On the evidence I've seen I think V12 reasonably concluded Miss E wouldn't have been able to travel that number of miles in the car if the head gasket problem had been present or was developing when she acquired the car. V12 could reasonably conclude there isn't enough evidence that the car supplied to Miss E was of unsatisfactory quality.

Miss E said the reason the dealership didn't do a MOT test before supplying the car to her was because it knew about the head gasket problem. But the MOT was due to expire at the end of June 2023 and the dealership didn't have to do the MOT early. The MOT was completed at the end of June 2023, it passed with no advisories reported.

I note that about six months ago Miss E raised a new issue, the car was sold with a broken thermostat which she says caused the head gasket problem. Our Investigator correctly explained that Miss E would need to send the new evidence to V12 so it had the opportunity

to comment. I don't know if Miss E contacted V12 and I haven't seen any further evidence about the new issue. If Miss E did provide the new evidence to V12 and the parties still disagree then she can make a new complaint to us.

I appreciate Miss E is in a difficult and frustrating situation with the car. But on the evidence I've seen I'm satisfied that V12 fairly concluded the car was of satisfactory quality when it was supplied to her so I'm not asking V12 to take any action.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E to accept or reject my decision before 19 November 2024.

Nicola Sisk
Ombudsman