

Complaint

Mr H has complained about the quality of a car that Startline Motor Finance Limited ("Startline") supplied to him through a hire-purchase agreement.

Background

In February 2023, Startline provided Mr H with finance for a used car. The car was around seven years old and had completed 98,090 miles. The cash price of the vehicle was £13,995.00. Mr H paid a deposit of £500 and applied for finance to cover the remaining £13,495.00 he needed to complete his purchase. Startline accepted Mr H's application and entered into a 60-month hire-purchase agreement with him.

The loan had an APR of 19.8%, interest, fees and total charges of £7,165.20 (made up of interest of £7,155.20 and a credit facility fee of £10) and the total amount to be repaid of £20,660.20 (not including Mr H's deposit) was due to be repaid in 59 monthly instalments of £344.17 followed by a final payment of £354.17.

Mr H began having issues with the car shortly after taking possession of it. There was a problem with the turbo and this was replaced under the warranty that was supplied with the car. However, Mr H did pay £170 to replace the auxiliary belt and tensioner as this wasn't covered by the warranty.

In May 2023, the garage that completed the repairs under the warranty confirmed that there was a problem with the power steering. It said that this made the car unsafe to drive. Mr H subsequently complained to Startline looking to reject the car.

As a result of Mr H's complaint, Startline arranged for the car to be independently inspected and this took place in July 2023. The engineer who carried out this inspection confirmed that there was an unusual noise coming from the engine compartment and the car showed a fault code relating to the power steering.

However, although Mr H had said that he'd been having difficulties with the power steering since delivery as he was not able to evidence this being the case, the engineer did not think that the steering was an issue when Startline supplied the car, or that any issue meant that the car wasn't of satisfactory quality. As a result of the conclusions of the independent report, Startline didn't uphold Mr H's complaint. Mr H was dissatisfied at Startline's response and referred his complaint to our service.

Mr H's complaint was subsequently reviewed by one of our investigators. She eventually reached the conclusion that it was more likely than not that Startline had supplied Mr H with a vehicle that was not of satisfactory quality and it therefore should have accepted his rejection. So she upheld Mr H's complaint.

Startline disagreed with our investigator's view. It said that the supplying dealer had offered to repair the power steering as a gesture of goodwill and it considered this to be fair and reasonable.

As Startline disagreed with the investigator's assessment, the complaint was passed to an ombudsman for a final decision and the complaint has been passed to me to decide.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I'm satisfied that what I need to decide in this case is whether the car supplied to Mr H was of satisfactory quality. Should it be the case that I don't think it was, I'll then need to decide what's fair, if anything, for Startline to do put things right.

It might help for me to explain that I will reach my decision on the balance of probabilities. Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I must reach my conclusion based on what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

The finance agreement in this case is a regulated hire-purchase agreement, which we are able to consider complaints about. Under the hire-purchase agreement, Startline purchased the vehicle from the dealership Mr H visited. Mr H then hired the vehicle from Startline and paid a monthly amount to it in return. Startline remained the legal owner of the vehicle under the agreement until Mr H's loan was repaid.

This arrangement resulted in Startline being the supplier of Mr H's vehicle and so it is also responsible for answering a complaint about its quality.

The Consumer Rights Act 2015 ("CRA")

The CRA covers hire-purchase agreements – such as Mr H's agreement with Startline. Under a hire-purchase agreement, there are implied conditions that the goods supplied will be of satisfactory quality.

The CRA says the aspects of the quality of the goods and whether they are satisfactory includes their general state and condition alongside other things such as their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability.

Is there a fault with the vehicle?

Having considered everything provided, while there may be a dispute over which party was responsible, I'm satisfied that there was a fault present on the vehicle at least at the time of Mr H's complaint. I say at the time of Mr H's complaint as there is some suggestion that the supplying dealer may have, at least, attempted a repair.

Both the independent engineer and the garage Mr H where the repair to the turbo was carried out have confirmed that there is an issue with the power steering which was affecting the car at the time of the complaint. So I'm satisfied that there was a fault with the vehicle.

As this is case, I'll now proceed to decide whether the fault which I'm satisfied was present on the vehicle at the time of Mr H's complaint, means that the car wasn't of satisfactory quality at the point of supply.

Why I don't think that Mr H was supplied with a vehicle of satisfactory quality

I've read and considered everything provided. It's fair to say that both parties have significantly differing views on whether the car Startline supplied was of satisfactory quality

and they have both provided submissions from their own expert. The reports that have been provided have reached different conclusions. Although for reasons I'll explain, I don't think that they are conflicting.

On the one hand, Mr H has provided a copy of a report from a garage that has not only inspected the vehicle but has carried out some repairs on it. This report says that the car has a serious safety issue because of the problem with the steering. On the other hand, Startline has provided a copy of a report from an independent engineer which accepts that there is an issue with the steering, albeit the engineer states his opinion that the fault was not present or developing at the point of sale.

I've therefore considered this information and reached my own conclusion on whether the fault was present, or likely to have been developing at the point of sale. In doing so, I want to reassure the parties that I've considered the content of everything provided.

I appreciate that the independent report which Startline commissioned reached the conclusion that the fault developed after the sale and occurred as a result of age-related wear and tear. However, I'm mindful that the independent engineer's conclusion accepted that Mr H had said that he'd been having difficulty with the steering since the outset. But as Mr H had been unable to any provide documentary evidence to corroborate what he had said, the engineer did not place much weight upon this.

So I don't agree that there is no evidence at all of there being issues with the steering from the outset. It's more the degree of weight that can and should be placed on Mr H's submissions. Furthermore, I can also see that the engineer stated his opinion an issue would also have been picked up during the course of the repair that was carried out under the warranty.

While I've considered the independent engineer opinion, I can't see that his report makes any reference to having contacted the garage that completed the warranty repair to find out whether any issues had been picked up with the power steering during the time of the repair. I've also noted that the garage subsequently provided Mr H with a letter which stated that Mr H first reported having issues with the power steering on the car in November 2022, albeit this letter was written after the report had been published.

I initially thought that the garage had made an error in its letter as its letter suggests that Mr H had issues with the car prior to having entered into this agreement with Startline. However, I've subsequently been provided with further information which shows that although Mr H entered into this agreement with Startline in February 2023, this wasn't the first hire-purchase agreement that Mr H entered into with Startline for this car.

Mr H actually entered into an initial hire-purchase agreement for this car in September 2022. That said, there was purportedly an issue with its terms and this initial agreement was unwound sometime around January or February 2023. Mr H and Startline then entered into this agreement in February 2023. This is not only important as it explains why Mr H would have contacted the garage about the car in November 2022 but also because Mr H has provided evidence of email exchanges that took place between himself and the supplying dealer in September 2022 and October 2022.

These email exchanges clearly show that some initial repair work did take place on the car in September 2022 and then further repair work took place in October 2022. Startline has said that these exchanges relate to work that took place to replace the timing chain and in order for an MOT and service to be carried out. It has provided the original sales invoice, from September 2022, to support its view.

I can see that this sales invoice does confirm that the timing chain will be replaced and a service as well as MOT will be carried out. I also consider it more likely than not that the first couple of emails that Mr H has provided are in relation to this. But these aren't the only emails Mr H has provided.

Mr H has also supplied us with further emails between him and the supplying dealer which took place in October 2022 and which also suggest that the car was taken back to the supplying dealer after Mr H had taken delivery of it. The content of these emails indicate that the car was sent elsewhere for diagnostic checks and/or work to take place.

I think it is unlikely that these emails, or any work that took place, relates to the replacement of the timing chain, a service or an MOT. After all, this work had already been itemised in September 2022 and was due to be carried out before Mr H took delivery. As this is the case, I can't see why the supplying dealer would have needed to diagnose what the problem with the car was in October 2022 and after the car had been delivered.

I'm also mindful of the contents of an email, dated 19 December 2024, which the supplying dealer sent to the broker that arranged the finance. The first paragraph of this email states:

*"Our previous workshop manager told Mr H that the vehicle went to the main dealers before sale for a recall on the steering rack, the recall was to check and replace if necessary the steering rack motor bolts as they are prone to breaking, there was never any mention of the steering rack being replaced **as far as I am aware** [my emphasis]"*

After seeing this statement, I considered it to be somewhat equivocal. More importantly, it didn't provide any sort of confirmation as to what had been done at this time and why it then took so long for the car to be returned to Mr H. As a result, I asked the investigator to contact Startline and asked it to obtain a job sheet or some other record corroborating what, if anything, was done in relation to the steering rack and when any work took place. However, the information Startline provided in response appears to be from March 2024 and is not from October 2022.

So it's fair to say that despite having given Startline a chance to explain matters, I've still not been provided with anything to show what happened when the car was sent to the main dealer in October 2022. I don't know whether the steering rack was replaced around the time Mr H took possession of the car in September 2022. However, the available evidence does suggest that the previous workshop manager, at the supplying dealer, at the very least, for whatever reason, considered that the steering rack required inspecting by a main (which I take to mean manufacturer) dealer.

In these circumstances, I think that it is more likely than not that there was some kind of an issue with the steering rack at this time. And without anything to show that the steering rack was inspected by a main dealer and this showed that there were no issues, I can only conclude that some kind of repair took place. This is particularly as the emails Mr H has provided support the fact that the car was sent elsewhere in October 2022 and that there were delays to any work being completed and the car being returned to him.

Furthermore, I'm also mindful that as well as being unaware of the garage's letter confirming that Mr H had reported difficulty with the steering in November 2022, the independent engineer's report makes no mention of being aware of the car being sent to a main dealer, for steering related issues, sometime around him taking delivery of it. Indeed, the inception date (presumably of the hire purchase agreement) noted on the report is 4 July 2023, which is the date that the inspection took place.

As this is clearly incorrect, I don't even know what date that the independent engineer thought that Mr H took delivery of the car. So it's difficult for me to place much weight on the independent engineer's assertion that the issue was not present or developing at the point of sale, when I've not seen sufficient evidence to be satisfied that the independent engineer was even aware when the sale took place.

As Startline has been aware of the investigator's assessment as well as the information that she was aware of, I'm satisfied that it had ample opportunity to pass this further information on to the independent engineer and check whether he wished to stand by his findings in light of this. However, it hasn't taken the opportunity to do this.

In these circumstances, given the discrepancies in the independent report and the content of it at least, suggesting that the independent engineer was unaware of the full facts, the weight I can place on it is limited. This is particularly as the contemporaneous evidence Mr H has provided indicates that not only did he have issues with the steering around the time he took delivery of the car, it is more likely than not that, for whatever reason, the car was sent to a main dealer due to issues with the steering shortly before or around the initial time of sale.

In reaching my conclusions, I'm mindful that Mr H acquired a car that was used – it was just under seven years old in February 2023 and had completed around 98,000 miles (Startline has said that the mileage used in February 2023 was the same as in September 2022 as the car had remained in Mr H's custody. But I've not been provided with a copy of the original agreement).

I accept that there would be different expectations regarding the quality of this car when compared to a new car. Having said that, the car's condition at the point of supply, should have met the standard a reasonable person would consider satisfactory, taking into account its age, mileage, price and any other relevant factors.

Here, the vehicle supplied needed repair work to, at least, the steering. As I've said, the vehicle had completed over 98,000 miles by the time it was supplied and I do appreciate that as it wasn't new there'd be an expectation that it would have had some wear and tear on it.

Nonetheless, I think that a reasonable person would expect that as Mr H was paying close to £14,000.00 – notwithstanding the mileage completed prior to the purchase. Given just how soon after Mr H's purchase that he had issues with the steering, the limited mileage he was able to complete and the car had been sent to a main dealer because the steering needed investigating, I'm satisfied that it is more likely than not that the car was supplied to Mr H in a defective state - with a faulty steering rack.

For the sake of completeness, I would also point out that I've not seen any evidence, nor can I see that either Startline or the supplying dealer have argued, that the vehicle was supplied at a discounted price, because there were issues with the steering rack or it needed to be replaced in the near future and this was brought to Mr H's attention either.

Taking all of this into account, I think that the fact that a fundamental component – the steering rack – needed remedial work so soon after Mr H acquired it and after he completed such a limited amount of miles (in circumstances where I'm satisfied that it is more likely than not the steering was looked at), means that I don't think the car was of satisfactory quality when Startline supplied it to Mr H.

What Startline needs to do to put things right for Mr H

I've gone on to think about what Startline needs to do to put things right as a result of supplying him with a vehicle that was not of satisfactory quality.

Mr H has already told us that he wishes to reject the car as the number of issues he's had has left him feeling the car is unsafe. Startline has said that the supplying dealer has already repaired, or has already offered to repair, the steering rack as a gesture of goodwill. It argues that this sufficiently addresses matters irrespective of whether the car was of satisfactory quality when it was supplied.

I've considered what the parties have said. I think that it would help for me to start by explaining that the CRA provides a customer with the final right to reject (the goods) should the goods not conform to the contract after a repair has been carried out. In this case, I'm mindful that the already a warranty repair to the turbo (and associated issues) in early 2023.

In my view, the CRA's use of 'conform to the contract', rather than successful repair, means that it not only the case that the repairs to turbo and any associated repairs have to have been completed, but also that Mr H has to have been left in a position where he was able to use the car. Clearly this has not happened and, in my view, the steering fault making the car unusable not too long after the repair to the turbo, in itself, provides a strong reason for Mr H to be able to reject the car.

For sake of completeness and in any event, I'm also mindful that even if I were to conclude the steering fault is wholly unrelated to the previous issues and that this particular fault is the first instance where it could be said that the car was not of satisfactory quality, I'm mindful of the circumstances.

The CRA makes it clear that where a repair is carried out it must be done so within a reasonable time and without significant inconvenience to the consumer. Given Mr H has been reporting issues with the steering, at least, since May 2023 and it was close to a year before the supplying dealer offered to repair the car, as a gesture of goodwill or otherwise, I don't think that this was done within a reasonable period of time. It's clear that the length of time that passed did cause significant inconvenience.

In these circumstances, I'm satisfied that the fair and reasonable resolution here would be for Mr H to reject the vehicle and for Startline to collect it from the supplying dealer where I understand that it has been since April 2024. As Mr H will have rejected the vehicle, I'm satisfied that Startline should end its agreement with him and ensure that he has nothing further to pay on it.

This will seek to place Mr H in the position he would be in had he not entered into the hire-purchase agreement in the first place, so I'm satisfied that Startline should refund Mr H the £500 deposit¹ he paid, as part of this agreement, with interest at 8% per year simple.

There is no dispute that Mr H has had no use of the vehicle of the vehicle at all since March 2024. So I'm satisfied that Startline should refund any and all of the payments that Mr H has made since April 2024, plus interest at 8% a year simple. Mr H has asked for a refund of at least some of his payments prior to April 2024.

I've considered what Mr H has said. However, I'm satisfied that he was able to use the car prior to it leaving it with the supplying dealer in April 2024. I appreciate that Mr H has said that he didn't get reasonable use from the car up until this point. However, public records show that the March 2024 MOT for the car was completed with the mileage being just over 111,000 miles and the job sheet for the inspection of the steering, which took place in May 2024, records a mileage of 112,419.

¹ Based on the February 2023 hire-purchase agreement.

I'm therefore satisfied Mr H had some use of the car and even if some of this was during the period between September 2022 and February 2023, as Mr H has already had the initial agreement unwound and been reimbursed, at least, some payments, I'm satisfied that it would be fair and reasonable for Startline to retain the payments Mr H made from March 2023 up to and including March 2024.

I've seen that Mr H paid £170 for the auxiliary belt and the tensioner to be repaired or replaced. As the investigator explained, this is a cost which Mr H incurred because he was supplied with a faulty vehicle. So I'm satisfied that Startline should reimburse him for this, plus interest at 8% a year simple.

It's unclear whether Mr H paid his garage for its inspections or any of the reports or letters that it provided in support of his arguments regarding the steering rack. But if he's able to provide copies of invoices or receipts showing that he did, Startline should also ensure that he's reimbursed these costs in the same way.

I now turn to any distress and inconvenience Mr H may have experienced. It's clear that Mr H had to deal with the stress of arranging and getting to and from garages for diagnostic checks to be carried out, repairs be carried out and reports to be provided. I think that all of this is likely to have caused Mr H a reasonable amount of distress and inconvenience.

Bearing in mind the amount of distress and inconvenience that Mr H has experienced because of all of this, I think that Startline should pay Mr H £300 for the distress and inconvenience experienced as a result of being supplied with a car that was not of satisfactory quality.

Fair compensation – what Startline needs to do to put things right for Mr H

Overall and having considered everything, I think it is fair and reasonable for Startline to put things right for Mr H by:

- collecting the car from Mr H (or the supplying dealer should that now be where the vehicle is) at no cost to him;
- ending the hire-purchase agreement and ensuring that Mr H has nothing further to pay. Startline should also remove any adverse information it may have recorded against Mr H as a result of this agreement from his credit file;
- refunding his deposit and all of the payments that he made to the agreement from April 2024 onwards;
- reimbursing him the £170 he paid for the auxiliary belt and tensioner to be repaired or replaced. If Mr H also paid his garage for its diagnostic work, inspections or reports and he can provide a receipt or invoice for this, Startline should also reimburse him these amounts;
- adding interest at 8% per year simple on any refunded and reimbursed payments from the date they were made by Mr H to the date the complaint is settled†;
- paying him £300 in compensation for the distress and inconvenience that was caused.

† HM Revenue & Customs requires Startline to take off tax from this interest. Startline must give Mr H a certificate showing how much tax it has taken off if he asks for one.

My final decision

For the reasons I've explained, I'm upholding Mr H's complaint. Startline Motor Finance Limited should put things right for Mr H in the way I've directed it to do so above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 25 February 2025.

Jeshen Narayanan
Ombudsman